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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorneys for Capital Development, Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE
APPLICATION OF UNITED
WATER IDAHO INC. TO AMEND
AND REVISE CERTIFICATE OF
CONVENIENCE AND NECESSITY
NO. 143**

CASE NO. UWI-W-07-02

**DIRECT SUPPLEMENTAL
TESTIMONY OF J. RAMON
YORGASON IN SUPPORT OF
APPLICANT UNITED WATER
IDAHO INC.**

1 Q. Please state your name and identify your position with Intervenor
2 Capital Development Inc.

3 A. My name is J. Ramon Yorgason, and I am the president of Capital
4 Development, Inc.

5 Q. Are you the same Ramon Yorgason who provided both direct and
6 rebuttal testimony in this proceeding?

7 A. Yes.

8 Q. What is the purpose of your supplemental testimony?

9 A. I would like to provide the Commission with those documents and
10 related testimony pertaining to the terms and status of the agreement that was
11 reached between Capital Development and the City of Eagle concerning the
12 pending application of United Water Idaho Inc.

13 Q. Before turning to the agreement itself, can you tell me whether the
14 intent of your agreement with Eagle has been summarized in the official records
15 of the City?

16 A. Yes. The intent was explained and set forth in the Minutes of the
17 Eagle City Council attached as Exhibit 301 on page 8, where Eagle's city
18 attorney, Susan Buxton, summarized the terms of the agreement I had reached
19 with the Eagle City Council.

20 Q. The Minutes state on page 9 that Ms. Buxton explained to the
21 Eagle City Council as follows:

22 The developer would agree to have the PUD served
23 by the City Water System in compliance with Eagle

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1 City Ordinances and if at the time the Lanewood
2 PUD needs to hook up to a public water system and
3 the City system is not available to do so then the
4 PUC matter would be reinstated with regard to
5 whether that area should be served as part of the
6 United Water certificated area.

7 Is this an accurate summary of the intent of your agreement with Eagle?

8 A. Yes, with one modification it is.

9 Q. Was this intent incorporated into the written agreement you and
10 Eagle executed?

11 A. Yes it was. A copy of the agreement between Eagle and Capital
12 Development is attached as Exhibit 302, and the intent articulated by Mrs. Buxton
13 with the modification I mentioned was expressed and implemented through four
14 provisions contained in the agreement.

15 Q. Would you please identify each of these four provisions and
16 explain its relevance.

17 A. The first provision is contained in the last sentence of the
18 Preliminary Statement where Eagle acknowledges that the reason it had
19 previously contested both Capital Development's development applications with
20 Ada County and United Water's application with the PUC was "based principally
21 on Eagle's determination that it will obtain in the near future those water rights
22 necessary to provide water service" to Lanewood Estates.

23 Q. What were you told about those water rights?
24

1 A. I was assured on several different occasions by Mayor Merrill,
2 who is a personal friend, that Eagle would have these essential water rights first in
3 May and then in June of this year.

4 Q. To your knowledge, has Eagle obtained the necessary water rights?

5 A. Not to my knowledge, and my attorney has repeatedly asked for
6 evidence that these water rights exist. For instance, by his August 8, 2007, e-mail
7 to Mrs. Buxton attached as Exhibit 303, my attorney asked for an explanation
8 with respect to whether the water rights that were tentatively awarded to Eagle
9 and are now being challenged could even be used to service Lanewood Estates.
10 We have received no response to this inquiry. And by his August 16, 2007,
11 e-mail to Mrs. Buxton attached as Exhibit 304, my attorney provided Eagle with
12 our development schedule for Lanewood Estates and explained to Mrs. Buxton
13 why based on the attached schedule Capital Development had no alternative but
14 to go forward with this PUC application. Further, when Mrs. Buxton called my
15 attorney in response to Exhibit 304 and asked what Eagle might do, my attorney
16 suggested that Eagle provide Capital Development with an unconditional will-
17 serve letter or other reasonable documentation establishing Eagle's ability to
18 provide water service to Lanewood Estates. As referenced in my attorney's very
19 recent e-mail to Mrs. Buxton of September 13, 2007, attached as Exhibit 305, we
20 are still waiting for such documentation.

21 Q. What is the second of the four provisions contained in your
22 agreement with Eagle that expresses and implements the intent as stated in the
23 City of Eagle's Minutes (Exhibit 301)?
24

1 A. The second provision is contained in the “NOW, THEREFORE”
2 clause of Exhibit 302, where it states that the purpose of the agreement was to
3 allow for the “orderly development of the Property without undue and costly
4 delay, and provide for United Water’s service of water to the Property in the event
5 Eagle is unsuccessful in obtaining the water rights it requires to service the
6 Property”

7 Q. Is your development of Lanewood Estates currently being delayed?

8 A. Yes. Ada County approved the development applications for
9 Lanewood Estates on July 11, 2007, and the appeal period for the approval
10 expired 28 days later in August. Further, because no grading permit is required
11 and our drainage plans were approved by Ada County as is reflected in
12 Exhibit 306, we would start grading today if we knew that we had water.

13 Q. Why can’t you start grading today anyway?

14 A. It would be financial Russian roulette to start the construction of
15 millions of dollars in improvements without knowing that we will have the water
16 necessary to complete the improvements and sell lots and homes. Because
17 Eagle’s water rights are being challenged and protested, it could conceivably be
18 years before Eagle has the necessary water rights to service our development. In
19 sum, not only would the interest costs on the constructed improvements be
20 enormous if we couldn’t get water, but we might lose our property to foreclosure
21 by our lender by incurring construction costs that we couldn’t recover through
22 sales.

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1 Q. But couldn't you also lose your property to foreclosure to your
2 lender if you don't start construction?

3 A. Yes. Because we are incurring interest at the rate of \$76,000 a
4 month, we have got to get Lanewood Estates under construction, but increasing
5 the amount borrowed and the resulting interest carry without having assurance of
6 water would make it more likely that we get in trouble with our lender, not less
7 likely.

8 Q. Okay. What is the third of the four provisions contained in your
9 agreement with Eagle that expresses and implements the intent as stated in the
10 City of Eagle's Minutes (Exhibit 301)?

11 A. The third provision is contained in Section 1 of Exhibit 302, where
12 it states that we would "continue the hearing of United Water's Application
13 currently set for May 24, 2007, to the first available date after August 24, 2007."

14 Q. What is the significance of this provision?

15 A. August 24 was the latest I possibly could wait until having to again
16 ask the Commission to grant United Water's application, so that I would not be
17 delayed until after winter to pave the project; and I made the importance of this
18 date clear to Eagle. In fact, before agreeing to the August 24 deadline, Eagle
19 asked that the date be extended from June 30 to the end of July and then finally to
20 August 24, so that Eagle could have all the time that I could possibly give it to
21 obtain the water rights it was counting on getting to serve Lanewood Estates.

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1 Q. What then, is the last of the four provisions contained in your
2 agreement with Eagle that expresses and implements the intent as stated in the
3 City of Eagle's Minutes (Exhibit 301)?

4 A. The fourth provision is contained in Section 4(d) of Exhibit 302,
5 which states that "Eagle shall not adopt an ordinance annexing the Property until
6 water service has been provided to the boundary of the Property for delivery of
7 water."

8 Q. What is the significance of this provision?

9 A. The provision was intended to ensure that Eagle would not obtain
10 any jurisdiction over Lanewood Estates unless and until Eagle obtained the water
11 rights necessary to provide water service to the property—which to my
12 knowledge Eagle has not done and may not do for months or even years.

13 Q. You testified that the intent of your agreement as articulated in the
14 City of Eagle's Minutes (Exhibit 301) was modified somewhat. Can you explain
15 how?

16 A. Yes. Exhibit 302 was revised and executed on May 23, 2007, the
17 day after Mrs. Buxton explained the intent of the proposed settlement contained in
18 Eagle's Minutes. As I previously stated, the agreement with Eagle that was
19 negotiated gave Eagle until August 24 to obtain the water rights necessary to
20 provide water service to Lanewood Estates. I never agreed that Eagle would have
21 until after I had constructed the water system for the project to obtain the
22 necessary water rights. Nor for the economic reasons previously discussed would
23
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1 I ever agree to first construct substantial improvements and then pray somebody
2 could provide water.

3 Q. Didn't you agree in Exhibit 302 to file an application for
4 annexation promptly following Ada County's approval of your development
5 applications, which became final in August?

6 A. Yes, we did.

7 Q. Have you filed an annexation application with Eagle?

8 A. Yes, we filed an annexation application with Eagle today.

9 Q. Why didn't you file an annexation last month?

10 A. In simple terms, I overlooked the matter and nobody at Eagle even
11 raised the issue until last week, when Mrs. Buxton sent her September 13, 2004,
12 letter to my attorney.

13 Q. Did Eagle ever overlook any of its obligations to you under your
14 agreement?

15 A. Yes. As provided in Section 1 of Exhibit 2, Eagle was obligated to
16 provide Capital Development with written status reports every two weeks. But as
17 established by my attorney's e-mails of June 7, June 25, and August 7 attached as
18 Exhibit 307, my attorney had to send repeated requests to Mrs. Buxton to obtain
19 these reports.

20 Q. To your knowledge, has Eagle been harmed in any way by the
21 delay in the filing of Capital Development's annexation application?

22 A. No, and considering the proscription on Eagle annexing our
23 property under Section 4(d) of Exhibit 302, it is inconceivable to me that Eagle
24

1 suffered any more detriment by our submission today, than Capital Development
2 did by Eagle's delay in submitting several of its written status reports.

3 Q. Eagle has pointed to the confidentiality agreement attached as
4 Exhibit 308 that you entered into with United Water as evidence that you were
5 conspiring with United Water against Eagle. Were you?

6 A. No, and the allegation is insulting and absurd for two reasons.
7 First, my agreement with Eagle specifically provides that United Water could
8 provide water service to Lanewood Estates if Eagle couldn't obtain the water
9 rights it needed by August 24. Second, because my agreement with Eagle
10 provides for concessions by Eagle—including the waiver of certain filing fees, the
11 expeditious review and processing of certain plans and applications, and the
12 preparation and submission of written status reports—the very purpose of the
13 confidentiality agreement was to protect Eagle's interests by keeping the terms of
14 the agreement between Capital Development and Eagle out of the hands of other
15 developers, who might ask for similar concessions from Eagle.

16 Q. Mr. Yorgason, to your knowledge, is Eagle ready, willing, and able
17 to provide water service to Lanewood Estates?

18 A. Certainly not to my knowledge, and as I earlier indicated, my
19 attorney has repeatedly asked Eagle to provide reasonable evidence that it has the
20 necessary water rights, without success.

21 Q. One final question. Based on the foregoing, do you and Capital
22 Development want United Water to provide water service to Lanewood Estates?

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A. Yes, we desperately need water, and United Water is the only purveyor that actually has the water rights to service Lanewood Estates.

DATED this 17th day of September 2007.

J. Ramon Yorgason

J. Ramon Yorgason

SUBSCRIBED AND SWORN to before me this 17th day of September 2007.

Karlyn D. Parker

NOTARY PUBLIC FOR IDAHO
Residing at *Boise, Idaho*
My Commission Expires *5/26/09*



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on this 17th day of September 2007, I
3 caused a true and correct copy of the foregoing **DIRECT SUPPLEMENTAL**
4 **TESTIMONY OF J. RAMON YORGASON IN SUPPORT OF APPLICANT**
5 **UNITED WATER IDAHO INC.** to be served by the method indicated below,
6 and addressed to the following:

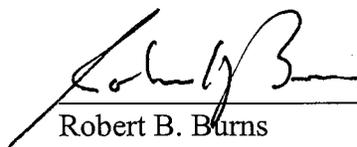
5 Gregory P. Wyatt () U.S. Mail, Postage Prepaid
UNITED WATER IDAHO, INC. (X) Hand Delivered
6 P. O. Box 190420 () Overnight Mail
Boise, ID 83719 () Facsimile
7 E-mail: greg.wyatt@unitedwater.com

8 Dean J. Miller () U.S. Mail, Postage Prepaid
MCDEVITT & MILLER, LLP (X) Hand Delivered
9 420 West Bannock Street () Overnight Mail
P. O. Box 2564 () Facsimile
10 Boise, ID 83701
E-mail: joe@mcdevitt-miller.com

11 Scott Woodbury () U.S. Mail, Postage Prepaid
12 Deputy Attorney General (X) Hand Delivered
IDAHO PUBLIC UTILITIES COMMISSION () Overnight Mail
13 472 West Washington Street () Facsimile
P. O. Box 83720
14 Boise, ID 83720-0074
E-mail: scott.woodbury@puc.idaho.gov

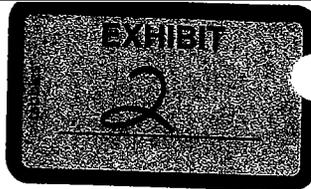
15 Bruce M. Smith () U.S. Mail, Postage Prepaid
16 MOORE, SMITH, BUXTON & TURCKE, CHTD. (X) Hand Delivered
950 West Bannock Street, Suite 520 () Overnight Mail
17 Boise, ID 83702 () Facsimile
E-mail: bms@msbtlaw.com

18 J. Ramon Yorgason, President () U.S. Mail, Postage Prepaid
19 Capital Development, Inc. (X) Hand Delivered
6200 N. Meeker Place () Overnight Mail
20 Boise, ID 83713 () Facsimile
E-mail: capdev@cableone.net

21
22 
23 Robert B. Burns
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Yorgason, Di-Sup 11
Capital Development, Inc.

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City of Eagle

Official web site of the City of Eagle, Idaho

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May 22, 2007 minutes

EAGLE CITY COUNCIL Minutes May 22, 2007 continued to May 23, 2007

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PRE-COUNCIL AGENDA: 6:30 p.m. - 7:30 p.m.

1. Lt. Dana Borgquist will present the monthly report for the Ada County Sheriff's Office. Lt. Borgquist was unable to attend tonight's meeting, his monthly report has been distributed to Council.

2. Robert McQuade, Ada County Assessor will review the new Construction Roll for the City of Eagle. Mr. McQuade distributes the Primary Roll Assessment Notice Summary to the Council and discusses the same. The Assessment Notices will be sent out this week, these numbers are preliminary numbers. General discussion.

Public Works Director Report: Dave Milan: Reports on the status of City projects. Construction of the tank should be done June 5th. The beginning of June the bids will be in on the Brookwood, Eaglefield and Legacy wells. We are checking on the irrigation around City Hall. Trautman is doing an assessment of the system.

Discussion on the proposed surveillance cameras. We have a set of cameras installed at Merrill Park and they are operating as expected. General discussion. We are not going to replace the cameras at City Hall so \$4,200.00 will come off from the proposal. The new total is \$19,500.00. The cameras will be for the remaining parks and the Library building.

Discussion on the flag poles. The poles will be located in the north grassy area at City Hall. These will be the same type of pole that was installed at Merrill Park. General discussion.

Discussion on the Vizcaya Subdivision Water Main Oversizing Reimbursement. I have talked to Vern and Susan Buxton about this and there are a lot of factors involved in this reimbursement process. The STL Fees that I am recommending that this is paid from are really earmarked for the storage tank and the water transmission lines. However, there is a section of Eagle City Code that allows the City to assess a fee for this type of reimbursement. Susan has recommend that we put together a proposal and a resolution to come to you in June to institute this fee. General discussion. My recommendation still stands as to this development.

Discussion on the purchase of a vehicle for the Public Works Department. General discussion.

City Attorney's Report: City Attorney Buxton: Updates the Council in

- Arts Commission - MINUTES
- Design Review Board - AGENDAS
- Design Review Board - MINUTES
- Historical Preservation Commission - AGENDAS
- Parks & Pathways Development Committee - AGENDAS
- Parks & Pathways Development Committee - MINUTES
- Planning & Zoning Commission - AGENDAS
- Planning & Zoning Commission - MINUTES
- Urban Renewal Agency

regards to the PUC applications. The hearings for the Comprehensive Plan are going forward. The Planning and Zoning Commission will have a recommendation on the new Comp Plan June 11, 2007. Discussion on the Veledrome project.

City Clerk's Report: A reminder of the special meetings that are scheduled, May 29, 2007 for Lakemore and June 5th for the Parks and Pathway Master Plan. Discussion on the Diversified Bond Fund.

Mayor and Council's Report:

Guerber: I have noticed that skateboards have been busy at City Hall and I'm concerned since we have the new bench in front of City Hall. Discussion on having the Sheriff's Department review the City ordinance in regards to the skateboarding.

Bastian: Discussion on the Library's Statistics Report for April 2007. We are subsidizing Ada County and Boise City and there will be an Agreement with these entities to compensate our Library.

Bandy: I am wondering about a meeting to discuss the Chamber of Commerce downtown plan. Council would like to have this meeting on May 29th to be discussed after Lakemore.

Jason Pierce: We could have some representatives of the committee available for May 29th.

Council would like to schedule the discussion of the Chamber of Commerce downtown plan on May 29th.

City Engineer Report: Continued to the end of the Agenda

Zoning Administrator's Report: Continued to the end of the Agenda

REGULAR COUNCIL AGENDA: 7:30 p.m.

1. **CALL TO ORDER:** Mayor calls the meeting to order at 7:45 p.m.
2. **ROLL CALL:** BASTIAN, GUERBER, NORDSTROM, BANDY. Nordstrom is absent. A quorum is present.
3. **PLEDGE OF ALLEGIANCE**
4. **PUBLIC COMMENT:** None
5. **CONSENT AGENDA:**
 - ◆ Consent Agenda items are considered to be routine and are acted on with one motion. There will be no separate discussion on these items unless the Mayor, a Councilmember, member of City Staff, or a citizen requests an item to be removed from the Consent Agenda for discussion. Items removed from the Consent Agenda will be placed on the Regular Agenda in a sequence determined by the City Council.
 - ◆ Any item on the Consent Agenda which contains written Conditions of Approval from the City of Eagle City Staff, Planning & Zoning Commission, or Design Review Board shall be adopted as part of the City Council's Consent Agenda approval motion unless specifically stated otherwise.
 - A. **Claims Against the City.**
 - B. **Open Container Permit for Chad Thomason dba daVinci's:** Chad Thomason is requesting an open container permit to be used on 1st Street from June 9, 2007 from 9:00 a.m. until 9:00 p.m. for the Fun Days Event. (SKB)
 - C. **Open Container Permit for LGJ Inc., dba: Busters:** LGJ Inc. is requesting an open container to be used in their parking lot located at 1396 E. State Street on June 8th and 9th from 2:00 p.m. until 1:00 a.m. for the Fun Days Event. (SKB)
 - D. **April 17, 2007 minutes.**

- E. **May 8, 2007 minutes.**
- F. **May 10, 2007 special meeting minutes.**
- G. **May 15, 2007 minutes.**
- H. **Findings of Fact and Conclusions of Law PP-05-07 - Chester Place (AKA Catalpa) Subdivision – West Wind Investments:** West Wind Investments, LLC, represented by Penelope L. Riley with Treasure Valley Engineers, is requesting approval of a preliminary plat for Chester Place (AKA Catalpa) Subdivision, a 12-lot (9 residential, 3 common) residential subdivision. The 17.90-acre site is located on the east side of North Meridian Road between Beacon Light and Floating Feather Road at 2650 North Meridian Road. (WEV)
- I. **Appointment to the Parks and Pathways Committee:** Mayor Merrill is requesting Council confirmation of Angela Deckers to the Parks and Pathways Committee. Ms. Deckers will be serving a three year term that will expire in May 2010. (NM)
- J. **DR-117-06 - Two Story Retail/Office/Apartment Building - Old Village Properties, LLC:** Old Village Properties, LLC, represented by Mary Frances Argusa, is requesting design review approval to construct a 5,658-square foot; two story retail/office/apartment building. The site is located on the north side of East Idaho Street approximately 200-feet east of Eagle Road at 172 East Idaho Street. (WEV)
- K. **DR-118-06 - Master Sign Plan for a Two Story Retail/Office/Apartment Building - Old Village Properties, LLC:** Old Village Properties, LLC, represented by Mary Frances Argusa, is requesting design review approval of a master sign plan for a two story retail/office/apartment building. The site is located on the north side of East Idaho Street approximately 200-feet east of Eagle Road at 172 East Idaho Street. (WEV)
- L. **DR-52-02 MOD - Idaho Independent Bank Building Modification - Idaho Independent Bank:** Idaho Independent Bank, represented by Chad Harbig with CSHQA, is requesting to modify the façade and landscaping of the existing bank building. This modification also includes extending the drive-thru canopy an additional 13.5-feet (approximately) to the east to accommodate a total of three (3) drive-up service lanes. The site is located on the northeast corner of East State Street and Stierman Way at 560 East State Street. (WEV)
- M. **DR-04-07 - Multi-tenant Office Building - Gale Pooley:** Gale Pooley is requesting design review approval to construct a 1,872-square foot multi-tenant office building. The 0.18-acre site is located on the south side of Winding Creek Drive approximately 430-feet west of Hill Road at 979 Winding Creek Drive. (WEV)
- N. **DR-05-07 - Master Sign Plan for a Multi-tenant Office Building - Gale Pooley:** Gale Pooley is requesting design review approval of a master sign plan for a multi-tenant office building. The 0.18-acre site is located on the south side of Winding Creek Drive approximately 430-feet west of Hill Road at 979 Winding Creek Drive. (WEV)
- O. **DR-07-07 - Building Wall Signs and Monument Sign for Farmers and Merchants Bank - Farmers and Merchants:** Farmers and Merchants, represented by David Glancey with BRS Architects, is requesting design review approval of two building halo illuminated building wall signs and one monument sign for the Farmers and Merchants Bank facility. The site is located on the northeast corner of the East State Street and Hill Road at 1101 East Winding Creek Drive. (WEV)
- P. **DR-11-07 - Building Addition to the Qwest Communication**

Facility - Qwest Communications: Qwest Communications, represented by Bob Smith with Hutchinson Smith Architects, is requesting design review approval to construct a 550-square foot addition to their existing facility. The site is located on the southeast corner of North Eagle Road and Idaho Street at 62 North Eagle Road. (WEV)

Q. **DR-17-07 - Common Area Landscaping within Park Lane Estates - Chad Moffat:** Chad Moffat, represented by Phil Hull with The Land Group, is requesting design review approval of the common area landscaping within Park Lane Estates Subdivision. The site is located on the west side of North Park Lane approximately 2,000-feet north of West Floating Feather Road at 1835 North Park Lane. (WEV)

R. **DR-18-07 - Common Area Landscaping, Clubhouse Facility, and 33 Duplex Homes within the Orchards at Eagle - Orchards at Eagle, LLC:** The Orchards at Eagle, LLC, represented by Phil Hull with The Land Group, Inc., are requesting design review approval for the common area landscaping, a 3,953-square foot clubhouse facility, and 33 duplex homes within the Orchards at Eagle Subdivision. The site is located on the southwest corner of West Old Valley Road and North Linder Road at 4831 and 4843 West Old Valley Road. (WEV)

Guerber removes Items #5I and L.

Bastian removes Items #5C, M and N.

Guerber moves to approve the Consent Agenda as amended. Seconded by Bastian. Bastian: AYE; Guerber: AYE; : AYE; Bandy: AYE: ALL AYES: MOTION CARRIES.....

5C. **Open Container Permit for LGJ Inc., dba: Busters:** LGJ Inc. is requesting an open container to be used in their parking lot located at 1396 E. State Street on June 8th and 9th from 2:00 p.m. until 1:00 a.m. for the Fun Days Event. (SKB)

Bastian: My concern is that there is going to be a live band, bbq and outdoor activities until 1:00 a.m. This would in violation of our noise ordinance.

City Clerk Bergmann: At your meeting on May 29, 2007, you will have a request for a waiver of the noise ordinance from Busters. General discussion.

Bastian moves to approve the Open Container Permit for LGJ Inc., dba: Busters. Seconded by Bandy. ALL AYES: MOTION CARRIES.....

5I. **Appointment to the Parks and Pathways Committee:** Mayor Merrill is requesting Council confirmation of Angela Deckers to the Parks and Pathways Committee. Ms. Deckers will be serving a three year term that will expire in May 2010. (NM)

Guerber: my recommendation would be pull this item as we have had a flurry of applicants for this position that the Committee needs to review and it will come back to Council at a later date. Seconded by Bandy. ALL AYES: MOTION CARRIES.....

5L. **DR-52-02 MOD - Idaho Independent Bank Building Modification - Idaho Independent Bank:** Idaho Independent Bank, represented by Chad Harbig with CSHQA, is requesting to modify the façade and landscaping of the existing bank building. This modification also includes extending the drive-thru canopy an additional 13.5-feet (approximately) to the east to accommodate a total of three (3) drive-up service lanes. The site is located on the northeast corner of East State Street and Stierman Way at 560 East State Street. (WEV)

Zoning Administrator Vaughan: Provides Council an overview of the

application. General discussion.

Chad Harbig, CSHQA, representing the applicant, provides Council an overview of the request to modify the façade and landscaping of the existing bank building. General discussion.

Bastian moves to approve DR-52-02 MOD - Idaho Independent Bank Building Modification - Idaho Independent Bank with all of the Site Specific and Standard Conditions of Approval except for Site Specific Condition #19 which is to be removed. Seconded by Guerber. ALL AYES: MOTION CARRIES.....

5M. **DR-04-07 - Multi-tenant Office Building - Gale Pooley:** Gale Pooley is requesting design review approval to construct a 1,872-square foot multi-tenant office building. The 0.18-acre site is located on the south side of Winding Creek Drive approximately 430-feet west of Hill Road at 979 Winding Creek Drive. (WEV)

5N. **DR-05-07 - Master Sign Plan for a Multi-tenant Office Building - Gale Pooley:** Gale Pooley is requesting design review approval of a master sign plan for a multi-tenant office building. The 0.18-acre site is located on the south side of Winding Creek Drive approximately 430-feet west of Hill Road at 979 Winding Creek Drive. (WEV)

Mayor: we will hear Items #5M and N together since this is the same project.

Bastian: I asked these items to be removed. I think there are conditions that have been placed on this application by Design Review that go beyond what is necessary and I would like the applicant to have an opportunity to present his side to the Council.

Gale Pooley, representing the applicant, Council Member Bastian has basically made my case. We have been to Design Review and they have asked for several additional requirements that go beyond the guide book. We are asking the Council to look at this.

General discussion on the changes proposed by the Design Review Committee.

Bastian moves to approve DR-04-07 - Master Sign Plan for a Multi-tenant Office Building - Gale Pooley and that we take the bullet items on the document dated May 8, 2007 and number them 1 through 8 and strike 4, 5, 6 and 7 and allowing the remaining 1,2,3 and 8 to stand and remove Item #8, or as stated more positive: we would allow the trellis as proposed, we would allow the incline of the eaves as proposed, we would not require the extension of the eaves on the building to 4', we would not require the raising of the stone wainscoting to the window sill and we would not require tapering of the stone wainscoting, we would not replace the round vents with a style more reflective of the Craftman architecture. Seconded by Bandy. ALL AYES: MOTION CARRIES.....

Mayor: If the Council agrees with the Master Sign Plan as suggested you can follow the Staff conditions and recommend approval with the Site Specific Conditions stated on Page 4 of 5. So Moved by Bastian. Seconded by Guerber. ALL AYES: MOTION CARRIES...

6. **FINAL PLAT:**

A. **FPUD-1-07/FP-01-07 & FP-02-07 – Final Development Plan and Final Plat for Mosca Seca Subdivision (Legacy) No. 1 & 2 – Idaho Development Services, LLC:** Idaho Development Services, LLC, Represented by Stanley Consultants, is requesting final development plan and final plat approval for Mosca Seca Subdivision No. 1, a 127-acre, 123-lot (92-buildable, 31-common) residential subdivision and Mosca Seca Subdivision No. 2, a 51-acre, 162-lot (150-buildable, 11-common, 1-well lot) residential subdivision. The 178-acre site is located south of Floating Feather Road west of Linder Road. (WEV) *This item was continued from the May 8, 2007 meeting.*

Mayor introduces the issue.

Guerber moves to continue FPUD-1-07/FP-01-07 & FP-02-07 – Final Development Plan and Final Plat for Mosca Seca Subdivision (Legacy) No. 1 & 2 – Idaho Development Services, LLC to the to the June 12, 2007 City Council meeting. Seconded by Bandy. ALL AYES: MOTION CARRIES.....

7. PUBLIC HEARINGS:

A. VAC-01-07 – Vacation of Public Utility/Access Easement across Parcels B & C, portions of Lot 2, and Lots 3 & 4 Block 4, Merrill

Subdivision No. 2. - Roy Montague: Roy Montague, represented by J-U-B Engineers Roy Montague, represented by Daren Fluke of J-U-B Engineers, is requesting City approval of a vacation to the final plat of Merrill Subdivision No. 2 to remove the portion of the plat note providing for a utility/access easement on portions of Lot 2 and Lots 3 & 4, Block 4. The site is located 35 feet east of East Plaza Drive on the south side of East State Street at 1119 East Plaza Drive. (WEV)

Mayor introduces the issue.

Bandy moves to continue VAC-01-07 – Vacation of Public Utility/Access Easement across Parcels B & C, portions of Lot 2, and Lots 3 & 4 Block 4, Merrill Subdivision No. 2. - Roy Montague to the June 12, 2007 as requested by staff. Seconded by Guerber. Discussion. ALL AYES: MOTION CARRIES.....

B. PP-02-07 - Preliminary Plat for Aguila Mountain Estates Subdivision – Red Rock Development:

Red Rock Development, LLC, represented by Bryan D. Martin, P.E., with Toothman-Orton Engineering Co., is requesting preliminary plat approval for Aguila Mountain Estates a 31-lot (24 buildable, 7 common) residential subdivision. The 10.24-acre site is located at the northwest corner of the intersection of East Hill Road and North Echohawk Way, approximately 420-feet west of State Highway 55. (WEV)

Mayor introduces the issue.

Mayor swears in Bryan Martin.

Bryan Martin, Toothman-Orton Engineering, representing the applicant, displays overheads and provides the Council an overview of the project. General discussion.

Planner Williams: Provides Council an overview of the project. Discussion on transferring or purchasing the water rights for the City. Staff recommends approval. General discussion.

**Mayor opens the Public Hearing
Mayor closes the Public Hearing**

Bastian moves to approve PP-02-07 - Preliminary Plat for Aguila Mountain Estates Subdivision – Red Rock Development with the Site Specific and Standard Conditions of Approval with a change in Site Specific Condition #13 to strike 8’ and replace it with 5’. Seconded by Guerber. Discussion. Bastian amends his motion to include the wording in #16 and add the following: “ or bonding for 1.5 times of the estimated cost of the construction of the sidewalk”. Second concurs. ALL AYES: MOTION CARRIES.....

C. A-18-06/RZ-24-06 & PP-21-06 - Annexation and Rezone from RUT to MU-DA and Preliminary Plat for Eagle Gateway South - Cornerstone

Group, LLC: Cornerstone Group, LLC, represented by Walter Lindgren with Johnson Architects and Morton McMillen, P.E., with McMillen Engineering, LLC, is requesting approval of an annexation and rezone from RUT (Rural Urban Transition) to MU-DA (Mixed Use with a Development Agreement in lieu of a PUD) and preliminary plat for Eagle Gateway South, a mixed use commercial and residential development. The 56.86-acre, 98-lot subdivision, 114-unit (71-single-family, 42-multi-family (contained within 5-lots), 16-commercial, and 6-common) is located on the southeast corner of State

Highway 44 and E. Riverside Drive at 1650 E. Riverside Drive. (WEV)

Mayor introduces the issue.

Mayor swears in Walter Lindgren

Walter Lindgren, Johnson Architects, representing the applicant, displays overheads and provides Council an overview of the project. General discussion.

Discussion on the ponds.

Planner Williams: One of staff's concerns was parking and I have asked the applicant to discuss parking.

Walter Lindgren provides Council an overview of the parking for the project. General discussion.

Mayor swears in Scott Stewart

Scott Stewart, I have spent a lot of time on this assisting Walter on the parking issues. I have done a lot of research on these numbers and they are conservative numbers. Discusses parking numbers and shared parking. General discussion.

Mayor swears in Marshall Smith

Marshall Smith, I have been working with Scott and his group on their theater idea for several months. We have been looking for a theater site here for some time. Discusses parking.

Mayor calls a recess at 9:25 p.m.

Mayor reconvenes at 9:35 p.m.

Planner Williams: I believe Water has covered the project as to where we are. Provides the Council an overview and history of the project. General discussion.

Mayor opens the Public Hearing

Mayor swears in Chad Longston,

Chad Longston,, 2615 E. Aspenwood, I'm the property owner directly to the West known as Lonesome Dove. We have jointly come up with a master plan here. We are definitely in favor of this project. We have been in close communication so we can do a project that blends well together and we have branded this as the River District which includes both of our projects. Discusses the amenities of both projects.

Scott Stewart, further discussion on the theater and the parking. General discussion.

Mayor closes the Public Hearing

General Council discussion.

Mayor reopens the Public Hearing

Scott Stewart: we would propose that we match the requirements of Lonesome Dove. General discussion.

Bastian moves to continue A-18-06/RZ-24-06 & PP-21-06 - Annexation and Rezone from RUT to MU-DA and Preliminary Plat for Eagle Gateway South - Cornerstone Group, LLC to the June 12, 2007 City Council meeting and have the developer reexamine the driveway situation to the single dwelling units and come up with a concept plan dealing with the driveways. Motion dies for lack of a second.

Further general Council discussion.

Bastian moves to approve A-18-06/RZ-24-06 & PP-21-06 - Annexation and Rezone from RUT to MU-DA and Preliminary Plat for Eagle Gateway South for all portions of this proposed subdivision except the residential units and that we continue the preliminary plat portion of this subdivision for residential units to the June 12, 2007 City Council meeting and at that time we establish the Site Specific Conditions and

questions as to driveways and set backs. **Seconded by Bandy.**
Discussion. Bastian amends his motion to state: only to the single family units of this subdivision. Discussion. Bastian amends his motion to state: To see all residential come back to us so we can see concept drawings of typical house and typical condominiums. Second concurs. ALL AYES: MOTION CARRIES.....

D. CU-03-07/PPUD-01-07/PP-03-07 - Alderwood No. 3 Planned Unit Development - Wayne Swanson: Wayne Swanson represented by Matt Price with JJ Howard Engineering/Surveying is requesting conditional use, preliminary development plan, and preliminary plat approvals for Alderwood No. 3 Planned Unit Development, a 12-lot (11-buildable, 1-common) planned residential development. The 2.75-acre site is located at 985 W. State Street approximately 450-feet west of South Grandean Way.

Mayor introduces the issue.

Mayor swears in Matt Price

Matt Price, JJ Howard Engineering, representing the applicant, displays overheads and provides Council an overview of the development.

Planner Williams, displays overheads and provides Council an overview of the project. General discussion.

Mayor opens the Public Hearing

Mayor swears in Wayne Swanson

Wayne Swanson, 1802 Rush Road, I am the owner of the property we are speaking about. I don't like to do rear loaded garages. I build custom houses. Everyone I've built houses for want a back yard and that is why I don't want to do rear loaded garages. Discussion on the size of the lots. Discussion on the irrigation systems. General discussion.

Matt Price, discussion on back yards. General discussion.

Mayor closes the Public Hearing

General Council discussion.

Guerber moves to approve CU-03-07/PPUD-01-07/PP-03-07 - Alderwood No. 3 Planned Unit Development with the stipulation as set down by Planning and Zoning with the additional stipulation that final approval take place when official correspondence from Mr. Steven son setting out the agreement for the development of the roadway and other relationships with Alderwood No. 2 is received and approved by Staff. Seconded by Bandy. Discussion. Guerber amends the motion to stipulate that we would allow the additional guideline for front entry, side loaded garages with access from Stevesons Street. ALL AYES: MOTION CARRIES.....

Mayor calls a recess at 11:15 p.m.

Mayor reconvenes at 11:20 p.m.

8. NEW BUSINESS:

A. 2006000265-S/ZC/PUD/DA - Lanewood Estates Planned Unit Development - Lanewood Investments, LLC (Ada County Application): Lanewood Investments, LLC, represented by David Yorgason with Capital Development, Inc., is requesting a rezone with a development agreement from Rural Urban Transitional (RUT-Ada County designation) to Low Density Residential (R2-Ada County designation), planned unit development, and preliminary plat subdivision approvals for Lanewood Estates, a 426-lot (381-buildable, 45-common) planned residential development. The 190.52-acre site is bordered on the south of W. Floating Feather Road, on the west by N. Lanewood Road, on the east by N. Linder Road, and on the north by N. Beacon Light Road and is located at 2810 Lanewood Road. **This site is located in the Eagle Area of Impact. (WEV)**

Mayor introduces the issue.

Dave Yorgason, Capital Development, displays overheads and provides Council an overview of the project. General discussion.

Planner Williams: Provides the Council an overview of the transmittal. General discussion.

General discussion on the water provider for this project.

Mayor calls a recess at 12:10 a.m.
Mayor reconvenes at 12:12 a.m.

Guerber moves to go into Executive Session for the discussion of pending litigation, Idaho Code 67-2345(f). Seconded by Bastian. Bastian: AYE; Guerber: AYE; Bandy: AYE: ALL AYES: MOTION CARRIES.....

Council goes into Executive Session at 12:12 a.m.

Council discusses pending litigation.

Council leaves at 12:55 a.m.

City Attorney Buxton: We had an Executive Session with the applicant and came to a concept of a settlement with regard to our issues that we are set for hearing On May 24th before the PUC.

We have come up with a suggestion that the City will recommend approval of the PUD that was presented here tonight with the Developers agreement to stay the PUC application for United Water extending their certificated area over the Lanewood Estates and the Developer would consent to annex the PUD into the City upon the approval of the PUD by Ada County which is substantially similar to what is presented tonight. The developer would agree to have the PUD served by the City Water System in compliance with Eagle City Ordinances and if at the time the Lanewood PUD needs to hook up to a public water system and the City system is not available to do so then the PUC matter would be reinstated with regard to whether that area should be served as part of the United Water certificated area.

My recommendation that if the City agrees with these terms that you direct me to work with the developer to try and draft this document and that you continue this meet to later today because it is the 23rd and we can potentially have an agreement that you can approve. I would also ask that one of the Yorgason come forward on the record and state that they agree with this concept.

Ramon Yorgason, Capital Development, We appreciate the Council and the City Attorney working with us on this settlement approach. We certainly agree to negotiate a settlement and work forward as soon as possible and I would like to ask the City Attorney to contact our attorney, Bob Burns, and we will be available to answer any questions. It is our understanding that the City will support our application to the County and that we will make application as soon as possible without jeopardizing our County application and would make application to the City for annexation and the City water service and if the City water service is not available we will find another solution possibly United Water.

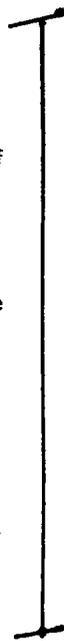
City Attorney Buxton: We do have a rough document that we looked at and I will supply copies to everyone. Pick a time that you are available tomorrow.

Mayor: Susan, we just make a motion upon what you just stated?

So moved by Guerber. Seconded by Bandy. Discussion. Guerber amends his motion to set the meeting time at 3:00 p.m. Second concurs. ALL AYES: MOTION CARRIES.....

General discussion.

City Attorney Buxton: The above Council motion continues all matters remaining on the agenda to the meeting today, May 23, 2007, at 3:00 p.m.



MAY 23, 2007

CALL TO ORDER: Mayor calls the meeting to order at 4:03 p.m.

Bastian is present by a telephone conference call. Nordstrom is absent. A quorum is present.

8B. Request for purchase of Fallen Soldier Statue: – Mayor Merrill

Mayor introduces the issue.

Discussion on the May 23, 2007 Memo from Barbara Burton, Coordinator Eagle Arts Commission, in regards to the Arts Commission request to go through a public process of asking for ideas and artist proposals with input from the public vs. selecting a non-community based work of art.

Council concurs that the Fallen Soldier Statute project is in conjunction with the Healing Fields and the Mayor’s Youth Action Council and that individuals have contributed to the purchase of the statute at the Healing Fields event and further funding raising will pay for the statute. This is a public project and will not be paid for by City funds.

Bandy makes a motion to approve the purchase of the Falling Soldier Statute in the amount of \$4,400.00. Seconded by Guerber. Bastian: AYE; Guerber: AYE; Bandy: ALL AYES: MOTION CARRIES.....

8C. Security Camera system for municipal parks: - (DM)

Mayor introduces the issue.

Guerber moves to approve the proposal presented last night for the security camera system for municipal parks up to the amount of \$19,500.00. Seconded by Bandy. Discussion. Bastian: AYE; Guerber: AYE; Bandy: ALL AYES: MOTION CARRIES.....

8D. Flag poles for City Hall: - (DM)

Mayor introduces the issue.

Guerber moves to authorize the purchase of the three flag poles in an amount no to exceed \$12,228.00. Seconded by Bandy. Bastian: AYE; Guerber: AYE; Bandy: ALL AYES: MOTION CARRIES.....

8E. Resolution 07-13: A Resolution To Support And Participate In The Development Of Adequate Public Facilities Ordinances Specifically Including Those For Land Use And Transportation; And Providing An Effective Date. (WEV)

Mayor introduces the issue.

General discussion.

Guerber moves to table Resolution 07-13 to the June 12, 2007 City Council meeting. Seconded by Bandy. ALL AYES: MOTION CARRIES.....

9. UNFINISHED BUSINESS:

A. Vizcaya Subdivision Water Main Oversizing Reimbursement: *This item was continued from the May 15, 2007 meeting.* (DM)

Mayor introduces the issue.

General Council discussion.

Bandy moves to approve the Vizcaya Subdivision Water Main Oversizing Reimbursement as presented by the Public Works Director; Vizcaya Subdivision will be given a credit of \$24,000.00 towards STL fees and the balance of \$11,000.00 will be paid out of the Water Funds STL Fees and work to develop a funding source for similar situations in the future. Seconded by Bastian. Bastian: AYE; Guerber: AYE; Bandy:

ALL AYES: MOTION CARRIES.....

B. Vehicle Purchase for Public Works Department: (DM)

Mayor introduces the issue.

Guerber moves to authorize the lease of a 2006 Chevrolet Envoy from Garden City for \$300.00 per month for the remained of the fiscal year with the understanding that this will be credited towards the purchase of the vehicle in the next fiscal year for \$20,000.00 and authorized spending the \$300.00 per month. Seconded by Bandy. Bastian: AYE; Guerber: AYE; Bandy: ALL AYES: MOTION CARRIES.....

Bandy: I would like to have a budget summary report on the June 19, 2007 City Council meeting. We have made a number of expenditures over the course of this year and I would like to see where we stand on some of these items.

Continued from May 22, 2007 Council Meeting at 1:00 a.m. May 23, 2007.

8. NEW BUSINESS:

A. 2006000265-S/ZC/PUD/DA - Lanewood Estates Planned Unit Development - Lanewood Investments, LLC (Ada County Application):

Lanewood Investments, LLC, represented by David Yorgason with Capital Development, Inc., is requesting a rezone with a development agreement from Rural Urban Transitional (RUT-Ada County designation) to Low Density Residential (R2-Ada County designation), planned unit development, and preliminary plat subdivision approvals for Lanewood Estates, a 426-lot (381-buildable, 45-common) planned residential development. The 190.52-acre site is bordered on the south of W. Floating Feather Road, on the west by N. Lanewood Road, on the east by N. Linder Road, and on the north by N. Beacon Light Road and is located at 2810 Lanewood Road. **This site is located in the Eagle Area of Impact. (WEV)**

City Attorney Buxton: This item was continued from the May 22, 2007 City Council meeting for settlement discussion. I would recommend that the Council go into Executive Session under Idaho Code 67-2345(f) to discuss this matter further and work with Capital Development and their attorney to settle this matter.

Guerber moves to go into Executive Session for the discussion of matters under Idaho Code 67-2345(f). Seconded by Bandy. Bastian: AYE; Guerber: AYE; Bandy: ALL AYES: MOTION CARRIES.....

Council goes into Executive Session at 4:20 p.m.

Council discusses pending litigation.

Council leaves Executive Session at 6:45 p.m.

Bastian moves to authorize the City Attorney to complete the annexation and cooperation agreement with Capital Development, Inc. consistent with the discussion held at approximately 1:00 a.m. and authorize the Mayor to sign. Seconded by Bandy. Bastian: AYE; Guerber: AYE; Bandy: AYE: ALL AYES: MOTION CARRIES.....

10. EXECUTIVE SESSION:

A. **Acquisition of private property:** I.C. § 67-2345(c)

B. **Personnel Matters:** I.C. §67-2345(A and/or B)

THIS EXECUTIVE SESSION WAS NOT HELD.

City Engineer Report: None
Zoning Administrator's Report: None

11. ADJOURNMENT:

Hearing no further business, the Mayor adjourned the meeting at 6:50

p.m.

A TRANSCRIBABLE RECORD OF THIS MEETING IS AVAILABLE
AT EAGLE CITY HALL

Contact City Hall at (208) 939-6813 - 660 E. Civic Ln. . or P.O. Box 1520 Eagle, Idaho 83616 eaglecity@cityofeagle.org

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ANNEXATION AND COOPERATION AGREEMENT

THIS ANNEXATION AND COOPERATION AGREEMENT (this "Agreement") is made effective upon its full execution below, by and between the City of Eagle, a municipal corporation in the State of Idaho ("Eagle"), and Capital Development, Inc., an Idaho corporation ("CDI").

PRELIMINARY STATEMENT

CDI has filed with Ada County certain land use applications ("CDI's Applications") with respect to CDI's proposed development of certain property (the "Property") owned by CDI's affiliate Lanewood Investments, LLC, an Idaho limited liability company ("Lanewood Investments"), as more particularly described in the Preliminary Plat Staff Report attached hereto as **Exhibit A**. In connection with its proposed development of the Property, CDI has requested United Water Idaho Inc. ("United Water") to provide water service to the Property in accordance with the Application of United Water Idaho Inc. to Amend and Revise Certificate of Convenience and Necessity No. 143 (Case No. UWI-W-07-02) currently pending before the Idaho Public Utilities Commission ("United Water's Application"). Eagle has heretofore opposed both CDI's Applications and United Water's Application based principally on Eagle's determination that it will obtain in the near future those water rights necessary to provide water service to the Property through Eagle's municipal water system and its resulting desire to annex the Property into the City of Eagle.

AGREEMENT

NOW, THEREFORE, in order to resolve their differences on mutually advantageous terms, allow for CDI's orderly development of the Property without undue and costly delay, and provide for United Water's service of water to the Property in the event Eagle is unsuccessful in obtaining the water rights it requires to service the Property, the parties agree as follows:

1. CDI and Eagle will jointly request United Water and the Idaho Public Utilities Commission (the "IPUC") to continue the hearing of United Water's Application currently set for May 24, 2007, to the first available date occurring after August 24, 2007. Eagle will provide to CDI written status reports on the progress of the water service plans with respect to the Property approximately every two (2) weeks until Eagle can provide water service to the Property.
2. Eagle shall provide water service to the boundary of the Property. The Property shall be serviced by Eagle's municipal water system in accordance with all applicable provisions of the Eagle City Code.
3. Eagle shall promptly withdraw all opposition to CDI's Applications and not further oppose the same so long as CDI makes no material amendment thereto; provided, however, CDI shall not be limited by this provision in negotiating the modification of conditions

of approval to CDI's Applications proposed by or through Ada County. Eagle shall also expeditiously review and promptly provide any comments it may have on any approval of CDI's Applications granted by the Ada County Planning and Zoning Commission.

4. CDI shall apply to Eagle to annex the Property promptly following Ada County's approval of CDI's Applications, which annexation application shall be subject to the following terms:

(a) Eagle shall waive all fees applicable to the annexation application;

(b) The Property shall be annexed subject to CDI's vested right to develop the Property on those terms and conditions approved by Ada County and otherwise in accordance with Ada County's development ordinances and standards in effect as of the filing of CDI's Applications;

(c) Eagle shall covenant to expeditiously review all improvement plans submitted by CDI to Eagle with respect to the development of the Property, including, without limitation, the plans for water service; and,

(d) Eagle shall not adopt an ordinance annexing the Property until water service has been provided to the boundary of the Property for delivery of water.

5. Notwithstanding the provisions of Section 4(b) above, CDI may seek Eagle's consent to eliminate certain of the stub streets on the eastern boundary of the Property as reflected in CDI's Applications, provided the Ada County Highway District consents to same, and to revising the length of the blocks in CDI's proposed development in accordance with Eagle's development standards.

6. This Agreement shall be construed in accordance with the law of the State of Idaho.

7. This Agreement constitutes the final and entire expression of the parties and supersedes all prior agreements and understandings, either oral or written, regarding the Property and may only be amended by a written agreement signed by the party to be bound.

8. This Agreement is binding upon and shall inure to the benefit of the parties and their successors and assigns.

9. If any part of this Agreement is held to be invalid or unenforceable, such provision shall thereupon be modified to the minimum extent necessary to make it or its application valid and enforceable, and the invalidity or lack of enforceability of one or more provisions shall not affect the remainder of this Agreement.

10. The failure of any party to enforce any covenant or condition of this Agreement shall not impede or otherwise limit such party's right to enforce the terms of this Agreement upon any subsequent breach.

11. The parties agree that, in the event of any judicial proceeding arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs incurred in connection with such action or proceeding, including those incurred on appeal.

12. This Agreement shall be executed in counterparts, each of which shall be a fully executed original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the date indicated opposite each signature below.

CITY OF EAGLE,
a municipal corporation organized and existing
under the laws of the State of Idaho

By: *Nancy C. Merrill*
Nancy C. Merrill, Mayor

ATTEST:



By: *Sharon K. Bergmann*
Sharon K. Bergmann, City Clerk

CAPITAL DEVELOPMENT, INC. ,
an Idaho corporation

By: *J. Ramon Yorgason*
J. Ramon Yorgason, President

By its execution below, the undersigned acknowledges and consents to the terms of the foregoing Agreement

LANEWOOD INVESTMENTS, LLC,
an Idaho limited liability company

By: *J. Ramon Yorgason*
J. Ramon Yorgason, Manager

**CITY OF EAGLE
PRELIMINARY PLAT STAFF REPORT**

ADA COUNTY TRANSMITTAL

DESCRIPTION: LANEWOOD ESTATES PLANNED UNIT DEVELOPMENT

FILE NUMBER: 2006000265-S/ZC/PUD/DA

**APPLICANT: CAPITAL DEVELOPMENT, INC.
DAVID R. YORGASON
6200 N. MEEKER PLACE
BOISE, ID 83713**

**REPRESENTED BY: DAVID R. YORGASON
6200 N. MEEKER PLACE
BOISE, ID 83713
PHONE - 208-377-3939
FAX - 208-375-3271**

PLANNING AND ZONING COMMISSION HEARING DATE: May 7, 2007

TENTATIVE CITY COUNCIL HEARING DATE: May 15, 2007

PROJECT SUMMARY:

Lanewood Investments, LLC, represented by David Yorgason with Capital Development, Inc., is requesting a zone change with a development agreement, planned unit development, and preliminary plat subdivision approvals for Lanewood Estates, a 426-lot (381-buildable, 45-common) planned residential development. The 190.52-acre site is bordered on the south of W. Floating Feather Road, on the west by N. Lanewood Road, on the east by N. Linder Road, and on the north by N. Beacon Light Road and is located at 2810 Lanewood Road. This site is located in the Eagle Area of Impact.

STAFF RECOMMENDATION:

Based upon the information provided to staff to date, staff recommends denial of the requested subdivision.

NOTE: The site specific conditions of approval herein are solely a recommendation of City staff. The final decision as to the recommendation to Ada County is totally subject to the City Council's determination.

EXHIBIT A

Exhibit No. 205
Case No. UWI-W-07-02
Nancy Merrill, City of Eagle

STAFF FINDINGS OF FACT:

A. PROJECT SUMMARY:

Lanewood Investments, LLC, represented by David Yorgason with Capital Development, Inc., is requesting a zone change with a development agreement, planned unit development, and preliminary plat subdivision approvals for Lanewood Estates, a 426-lot (381-buildable, 45-common) planned residential development. The 190.52-acre site is bordered on the south of W. Floating Feather Road, on the west by N. Lanewood Road, on the east by N. Linder Road, and on the north by N. Beacon Light Road and is located at 2810 Lanewood Road. **This site is located in the Eagle Area of Impact.**

B. APPLICATION SUBMITTAL:

This is an Ada County application for a proposed subdivision located within the Eagle City Area of Impact and contiguous to the City of Eagle. The subdivision is subject to the requirements outlined within the Eagle Area of Impact Agreement between Ada County and the City of Eagle. Subdivisions in the Impact Area shall be evaluated for conformance with the City of Eagle's Subdivision Code, Title 9, Chapter 3, and Title 9 Sections 9-4-1-1 through 9-4-1-12.

C. NOTICE OF PUBLIC HEARING: Responsibility of Ada County.

D. HISTORY OF PREVIOUS ACTIONS: None

E. COMPANION APPLICATIONS: All applications are inclusive herein.

F. COMPREHENSIVE PLAN LAND USE MAP AND ZONING MAP DESIGNATIONS:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
Existing	Residential Two (up to two units/ acre)	RUT (Ada County Designation)	Agricultural
Proposed	No Change	R2 (Ada County Designation-Low Density Residential)	Single Family, Residential Planned Unit Development
North of site	Transitional Residential	RUT (Ada County Designation)	Residential and agricultural
South of site	Residential Two (up to two units/ acre)	R-2-DA-P (Residential maximum two units/acre with a development agreement and a planned unit development)	Legacy Development (Mosca Seca Subdivision)
East of site	Residential Two (up to two units/ acre)	RUT (Ada County Designation)	Agricultural
West of site	Residential Two (up to two units/ acre)	RUT (Ada County Designation)	Agricultural

G. DESIGN REVIEW OVERLAY DISTRICT: Not in the DDA, TDA, CEDA, or DSDA.

H. SITE DATA:

Total Acreage of Site – 190.52

Total Number of Lots – 426

Residential - 381
 Commercial - 0
 Industrial - 0
 Common - 45

Total Number of Units - 381

Single-family - 381
 Duplex - 0
 Multi-family - 0

ADDITIONAL SITE DATA	PROPOSED	REQUIRED
Dwelling Units Per Gross Acre	Two units per acre	Up to two units per acre
Minimum Lot Size	7,700-square feet	17,000-square feet (Except that a decrease of minimum lot size in a subdivision may be allowed if there is an offsetting increase of the same square-footage in open space and a planned unit development is applied for and approved) - per ECC Section 8-2-4 (G).
Minimum Lot Width	70-feet	75-feet (minimum)
Minimum Street Frontage	30-feet	35-feet (minimum)
Total Acreage of Common Area	35.36-acres*	50.87-acres (minimum) 19.05-acres for 10% minimum plus 31.82-acres for lots smaller than the minimum - per ECC Section 8-2-4 (G) (Except that, according to ECC Section 9-3-8 (C) the City may require additional public and/or private park or open space facilities in PUDs or in subdivisions with 50 or more lots.)
Percent of Site as Common Area	18.56%*	26.7% (minimum-see above) Except that, according to ECC Section 9-3-8 (C) the City may require additional public and/or private park or open space facilities in PUDs or in subdivisions with 50 or more lots.

*Note: The Common Area calculation is inclusive of the areas adjacent to the irrigation canals and drainage ditches throughout the site.

I. GENERAL SITE DESIGN FEATURES:

Greenbelt Areas and Landscape Screening:

The preliminary plat date stamped by the City on April 3, 2007, shows a thirty-five foot (35') wide common lot adjacent to N. Lanewood Road and fifty foot (50') wide common lots adjacent to N. Linder Road, W. Floating Feather Road, and W. Beacon Light Road. The preliminary plat also shows the drainage ditches to be located within common lots approximately one hundred feet (100') in width.

Open Space:

The common area/landscape lots table provided on the preliminary plat shows 1,540,487 square feet (35.36 acres) of common area inclusive of the open space areas, buffer areas adjacent to the public roads, areas adjacent to the drainage ditches, and the landscape islands located within the public roads.

Storm Drainage and Flood Control:

Street drainage plans are to be submitted by the applicant to Ada County as required by the County's Subdivision Ordinance

Utility and Drainage Easements, and Underground Utilities:

Unobstructed utility easements shall be provided along front lot lines, rear lot lines and side lot lines when deemed necessary. Total easement width shall not be less than twelve feet (12').

Fire Hydrants and Water Mains:

Hydrants are to be located and installed as may be required by the Eagle Fire District.

On-site Septic System (yes or no) – yes

There are two existing residences located on two separate parcels are currently served by septic systems. The applicant will be required to obtain the proper permits and abandon the existing septic system.

J. STREET DESIGN:

Private or Public Streets:

All streets within the development are proposed to be constructed as thirty three foot (33') wide street sections, as measured from back of curb to back of curb, and located within fifty-feet (50') of public right-of-way.

Applicant's Justification for Private Streets (if proposed): None proposed

Blocks Less Than 500': None

Cul-de-sac Design:

The preliminary plat does not show a street section for the cul-de-sac however, it appears that the right-of-way is one hundred feet (100') in width. The islands shown within the cul-de-sacs have a twenty foot (20') wide diameter.

Sidewalks:

A detached five-foot (5') wide concrete sidewalk is proposed abutting both sides of the roadway.

Curbs and Gutters:

Curbs and gutters which meet Ada County Highway District standards are proposed for the interior streets.

Lighting:

Lighting for the proposed streets is required.

Street Names:

Street name should be approved by the Ada County Street Name Committee prior to final plat approval. Any modifications of street names shall be completed before final plat approval.

K. ON AND OFF-SITE PEDESTRIAN/BICYCLE CIRCULATION:

Pedestrian Walkways: (See comments under sidewalks above.)

Bike Paths:

Eagle City Code section 9-4-1-7 states that a bicycle pathway shall be provided in all subdivisions as part of the public right-of-way or separate easement, as may be specified by the City Council.

L. PUBLIC USES PROPOSED: None proposed

M. PUBLIC USES SHOWN ON FUTURE ACQUISITIONS MAP: No map currently exists

N. SPECIAL ON-SITE FEATURES:

Areas of Critical Environmental Concern - none

Evidence of Erosion - no

Fish Habitat - no

Floodplain - no

Mature Trees - yes - adjacent to existing residences

Riparian Vegetation - no

Steep Slopes - no

Stream/Creek: - yes - irrigation and drainage ditches

Unique Animal Life - unknown

Unique Plant Life - unknown

Unstable Soils - unknown

Wildlife Habitat - unknown

O. SUMMARY OF REVIEW OF ENVIRONMENTAL ASSESSMENT PLAN (IF REQUIRED):
Not required

P. AGENCY RESPONSES:

Since this is an Ada County application the City of Eagle does not transmit to the agencies that may be impacted by the development; therefore, the City will not receive agency responses regarding the development.

Q. LETTERS FROM THE PUBLIC: None received to date

R. PROPOSED TIME SCHEDULE FOR THE DEVELOPMENT OF THE SITE:

The applicant indicated within the narrative dated January 22, 2007, that due to the large scale of the development, they have not identified the phasing and construction schedule, the narrative goes on to state that the applicant is planning to start construction immediately upon County approval and will develop the property as efficiently as the market will allow. However, there is a phasing plan provided with the submittal that shows eighteen (18) phases for the project. The applicant should provide a time schedule for the phasing plan submitted with the application.

STAFF ANALYSIS:

A. COMPREHENSIVE PLAN PROVISIONS WHICH ARE OF SPECIAL CONCERN REGARDING THIS PROPOSAL:

Chapter 6 – Land Use

6.3 Land Use Designations

Residential Two

Suitable primarily for single family residential development within areas that are rural in character.

6.5 Goal

To preserve the rural transitional identity.

6.6 Objectives

a. To encourage the preservation of open spaces.

Chapter 9 – Parks, Recreation and Open Spaces

9.6 Open Space

Open space is land which is not used for buildings or structures and offers opportunities for parks, recreation, water amenities, greenbelts, river trails and pathways, tourism, leisure activities, viewpoints, and wildlife habitat.

9.6.1 Goal

To provide wherever possible open space and natural features such as natural river frontage, greenbelts, river trails and pathways, creeks, flood plains and flood ways, drainage ways and canals, development buffers, wooded areas, grasslands, foothills, and viewpoints for public use and enjoyment.

B. SOARING 2025 COMPREHENSIVE PLAN PROVISIONS, WHICH ARE OF SPECIAL CONCERN REGARDING THIS PROPOSAL

This property is within the Village Planning Area as recognized in the 2025 Western Area Plan.

Chapter 1 – Introduction

1.4 Relationship to Ada County Planning

The goals and policies of this plan are intended to be applied within the Eagle City limits and the negotiated Eagle Area of City Impact. The City acknowledges that the county may not have all the tools and codes necessary to implement this plan and will upon transmittal and review recommend to the county which county codes and appropriate conditions should be implemented to best implement and meet the intent of the Eagle Comprehensive Plan. **It is the desire of the City of Eagle to have the majority of the urban development occur under the jurisdictional authority of the City and connected to municipal services.**

Chapter 2 – Community Design

2.5 Implementation Strategies

- s. All urban development shall occur under the jurisdictional authority of the City and be connected to municipal services.

Chapter 4 – Public Facilities and Services

4.1 Background

As the City of Eagle develops westward it is important to understand the variety and availability of services within the area. Numerous special districts combine with City services to protect and enhance the health safety and welfare of the Eagle community.

4.6.3 Implementation Strategies

- h. Ensure all new development within the Western Planning Area connects to municipal water services.

4.10.2 Chevron Pipeline

The Chevron Pipeline is a portion of the gasoline transport system across the United States from Alaska and crosses from northwest to southeast through the western planning area. (See Map 4.5) At the time of construction most of the Eagle area was rural and the depth of the pipe was shallow, less than 20 feet. As the area develops it is important to identify the Chevron right-of-way, provide significant setbacks and buffers and encourage inspection of the line to ensure development is not encroaching on this facility.

Chapter 6 – Land Use

6.3 Objective

The land use map and associated policies shall be the official guide for development in the City of Eagle and shall be implemented through the zoning and development review process.

6.4 Implementation Strategies

- c. Use smaller planning areas to help guide development in the western planning area.

Appendix 1 – Glossary

Municipal Services Services, such as sewer water and library, **owned and/or managed by the City of Eagle** to property owners within or adjacent to the city.

C. ZONING ORDINANCE PROVISIONS WHICH ARE OF SPECIAL CONCERN REGARDING THIS PROPOSAL:

- Eagle City Code Section 8-2-4 Schedule of Building Height and Lot Area:

Minimum Yard Setbacks Note Conditions A To F*								
Zoning District	Maximum Height	Front	Rear	Interior Side	Street Side	Maximum Lot Covered	Minimum Lot Area (Acres Or Sq. Ft.) G And H*	Minimum Lot Width I*
R-2	35'	30'	30'	10'	20'	40%	17,000	75'

- Eagle City Code Section 8-2-4(B):
Additional 5 feet per story setback for multi-story structures. Height not to exceed 3 stories except by conditional use permit.
- Eagle City Code Section 8-2-4(G):
A decrease of minimum lot size in a subdivision may be allowed if there is an offsetting increase of the same square footage in open space and a planned unit development is applied for and approved.
- Eagle City Code Section 8-2-4(I):
Lot width shall be determined as follows: the distance between side lot lines measured at a point midway between the front and rear lot lines. Minimum lot frontage, the portion of a lot front adjacent to a public or private street, for all residential zoning districts shall be 35 feet.
- Eagle City Code Section 8-2A-7: Landscape and Buffer Area Requirements:

J. Buffer Areas/Common Lots:

1. Definition: A transition zone or buffer area consists of horizontal space (land) and vertical elements (plants, berms, fences, or walls). The purpose of such buffer space is to physically separate and visually screen adjacent land uses which are not fully compatible due to differing facilities, activities, or different intensities of use, such as townhouses and a convenience store, or a high volume roadway and residential dwellings.
4. Major Roadways: New residential developments, including, but not limited to, subdivisions and multi-family developments, shall be buffered from streets classified as collectors, arterials, freeways, or expressways, to protect residential communities from noisy, potentially dangerous, high speed roads. The "buffer area" shall be defined as the distance from the outside wall of the lowest story of any single-family

attached or detached dwelling and the right of way line of the roadway. The lowest story must be screened from the view of any street classified as a collector, arterial, freeway, or expressway. This buffer is required either on individual lots or as an easement, or as part of the common open space owned and maintained by a homeowners' association. Any landscaping proposed to be within the public right of way shall not be included as a part of the buffer area required below. The height for berming/fencing, as noted below, shall be measured from the elevation of the final grade of the adjacent roadway (measured at the centerline) to the top of the proposed berming/fencing. The required buffer area width, plantings, and fencing are as follows:

- b. Any road designated as a minor arterial on the Ada County long range highway and street map:

A minimum of fifty feet (50') wide buffer area (not including right of way) shall be provided with the following plants per one hundred (100) linear feet of right of way: five (5) shade trees, eight (8) evergreen trees, three (3) flowering/ornamental trees, and twenty four (24) shrubs. Each required shade tree may be substituted with two (2) flowering/ornamental trees, provided that not more than fifty percent (50%) of the shade trees are substituted.

A minimum five foot (5') high, maximum eight foot (8') high, berm, decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall, or combination thereof shall be provided within the buffer area. The maximum slope for any berm shall be three feet (3') horizontal distance to one foot (1') vertical distance. If a decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall is to be provided, in combination with the berm, a four foot (4') wide flat area shall be provided for the placement of the decorative wall. Chainlink, cedar, and similar high maintenance and/or unsightly fencing shall not be permitted.

- Eagle City Code Section 8-8-3 Applicable Plans Policies and Ordinances:

- A. The Eagle comprehensive plan, as adopted and amended by the city on September 14, 2004, by resolution 04-15, shall apply within the Eagle area of city impact, adopted on June 22, 2004, by ordinance 475 and as may be amended from time to time. Subsequent amendments to the aforesaid Eagle comprehensive plan shall apply within the Eagle area of city impact if the city and the county so agree.

- C. Applications for subdivision development in the Eagle area of City impact shall be evaluated for conformance to the design and improvement standards contained in the Eagle City Code, Title 9, Chapter 3, and in Chapter 4, Sections 9-4-1 through 9-4-1-12.

D. SUBDIVISION ORDINANCE PROVISIONS WHICH OF SPECIAL CONCERN REGARDING THIS PROPOSAL:

- Eagle City Code Title 9, Chapter 3 Design Standards
- 9-3-1 Minimum Standards Required:

All plats submitted pursuant to the provisions of this title, and all subdivisions, improvements and facilities done, constructed or made in accordance with said provisions

shall comply with the minimum design standards set forth in this chapter; provided, however, that any higher standards adopted by any highway district, the Idaho transportation department or health agency shall prevail over those set forth herein.

- 9-3-2 Streets and Alleys:

- 9-3-2-1 Location:

- Street and road location shall conform to the following standards:

- G. Cul-De-Sac Streets: Cul-de-sac streets shall not be more than five hundred feet (500') in length and shall terminate with an adequate circular turnaround having a minimum radius of fifty feet (50') of right of way with the following exceptions:

1. Alternative types of turnarounds for cul-de-sacs which will provide access to less than thirteen (13) dwelling units may be permitted by the city if approved by the fire department and the highway district having jurisdiction.
2. In zoning districts which prohibit densities greater than one dwelling unit per two (2) acres, cul-de-sac streets up to a maximum of one thousand five hundred feet (1,500') in length may be permitted by the city if approved by the fire department and the highway district having jurisdiction. No more than twenty (20) dwelling units shall be permitted on said cul-de-sac.
3. In zoning districts which prohibit densities greater than one dwelling unit per five (5) acres, cul-de-sac streets up to a maximum of two thousand eight hundred feet (2,800') in length may be permitted by the city if approved by the fire department and the highway district having jurisdiction. No more than twenty (20) dwelling units shall be permitted on said cul-de-sac.

- 9-3-5 Lots:

- Lots shall conform to the following standards:

- A. Zoning: Lots within any subdivision shall comply in all respects with the official height and area regulations as set forth in section 8-2-4 of this code.

- 9-3-6 Easements:

- A. Unobstructed utility easements shall be provided along front lot lines, rear lot lines and side lot lines when deemed necessary. Total easement width shall not be less than twelve feet (12').
- B. Unobstructed drainageway easements shall be provided as required by the city council.
- C. All natural drainage courses shall be left undisturbed or be improved in a manner which will improve the hydraulics and ease of maintenance of the channel.

- 9-3-8 Public Sites and Open Spaces:

- Public sites and open spaces shall conform to the following standards:

- B. **Natural Features:** Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots and similar irreplaceable assets) shall be preserved in the design of the subdivision.
- C. **Special Development:** In the case of planned unit developments and large scale developments, the city council may require sufficient public and/or private park or open space facilities of acceptable size, location and site characteristics that may be suitable for the proposed development. (Ord. 88, 11-15-1983)
- D. **Open Spaces:** The minimum percentage of the gross area that must be set aside for open spaces in new subdivisions shall be as follows:

Zoning District	R-2	R-3	R-4	R-5	R-6-R-25
Open Space	10%	10%	10%	10%	10%

- **9-3-8 Water System:**
The provision of a public water system shall conform to the following standards:
 - A. **All subdivisions within the Eagle city water service area shall comply with title 6, chapter 5 of this code.**
- **Eagle City Code Title 6, Chapter 5 Water Systems**
 - **6-5-1 Rules and Regulations:**
 - B. **Scope:** The water department and all customers receiving services from the water department, **whether inside or outside the city limits**, are bound by this chapter and the rules and regulations of the water department.
 - **6-5-3: Service Area and Connection Requirement:**
 - A. **Service Area:** The area serviced by the city shall be only that area within the corporate limits of the city, which is so designated by the city council, and such other contiguous and neighboring territory as the city council shall, from time to time, deem necessary to serve and identified on the water service development plan map contained in the city of Eagle water service master plan.
- **Eagle City Code Title 9, Chapter 4 Required Improvements**
 - **9-4-1: Improvements Required:**
Every subdivider shall be required to install the following public and other improvements in accordance with the following conditions and specifications.
 - **9-4-1-6: Pedestrian/Bicycle Pathway and Sidewalk Regulations:**
 - A. **Intent:** The placement of pathways is intended to encourage nonmotorized forms of travel, and to provide safe, convenient and aesthetic alternative travel routes to common destinations such as schools, parks, shopping centers, etc. The following factors will be considered in the placement of any pathway: the utility and need

for a given pathway, impacts to existing neighborhoods, compliance with the transportation/pathway network maps within the comprehensive plan, pathway design as it relates to both crime prevention and function, and the responsibilities of ownership, maintenance, and liability.

B. Location:

1. The city shall require the creation and maintenance of pathways, (except in cases where it is shown to be inappropriate), that provides access to adjacent:
 - c. Adopted pathway elements within the comprehensive plan and the ridge to rivers pathway plan;
 - d. Neighborhoods;
 - g. Transportation or other community facilities, and vacant parcels, held either publicly or privately which could provide future neighborhood connection(s) to the above noted sites; and
 - h. In similar cases where deemed appropriate.

D. Pathway Design: While the city may exercise considerable discretion in determining the design of pathways, the following minimum standards should be followed:

1. The paved portion of the pathway may range from six feet (6') to ten feet (10') in width. Micropathways within subdivisions which are designed for primary use by the residences of the subdivision shall be a minimum six feet (6') wide and shall be located within a sixteen foot (16') wide pedestrian access easement. Regional pathways such as the Boise River greenbelt and pathways located adjacent to major roadways shall be a minimum ten feet (10') wide and shall be located within a twenty foot (20') wide pedestrian access easement.
 3. A five foot (5') wide landscaped area/building and fence setback, as measured from both edges of the paved path, shall be required, and will be owned by either the abutting property owner(s) or a homeowners' association unless accepted by a public entity. The five foot (5') wide landscaped area on either side of the pathway may be decreased to a minimum of two feet (2') wide (as measured from the edge of asphalt to the easement line) when used in conjunction with a meandering pathway, however, the total width of the landscape area shall not be less than ten feet (10') (i.e. 2 feet on one side of the path and 8 feet on the other). For safety purposes, planting material in this area is limited to three feet (3') in height. The landscape, fence and building regulations for this area shall be indicated by a note on the plat.
- E. Responsibility: The following provisions are intended to provide guidance to those entities that are responsible for construction, maintenance and/or liability for a pathway. Installation costs, which may include construction of the paved path, are the responsibility of the developer.

1. Homeowners' Association:

- a. Pathway systems within a proposed subdivision providing access to private common space and/or other amenities that are used solely by the residents of a subdivision shall be the responsibility of the homeowners' association.

9-4-1-7: Bicycle Pathways:

A bicycle pathway shall be provided within all subdivisions as part of the public right of way or separate easement, as may be specified by the city council.

9-4-1-9: Water Supply and Sewer Systems:

- A. Construction; Extension: All public water supply or sewer systems (serving 2 or more separate premises or households) shall be constructed in accordance with any adopted local plans and specifications. All new public water supply or sewer systems shall be an extension of an existing public system whenever possible. In the event that the proposed public water supply or sewer system is not an extension of an existing public system, there shall be a showing by the subdivider that the extension is not feasible and not in the best interest of the public.

C. Pressurized Irrigation Facilities:

1. For any new subdivision and/or PUD, to be provided with a public water system and containing more than four (4) lots, all residential dwelling units within such subdivision shall be provided with a pressurized irrigation system to be served with irrigation water unless a waiver, as outlined herein, is approved by the city council.

9-4-1-12: Landscape Buffer Areas:

Landscape buffer areas, in accordance with section 8-2A-7 of this code shall be required for the protection of residential properties from streets classified as collectors, arterials, freeways/expressways, waterways, railroad rights of way or other features. Subdivision plats shall show the location of all buffer areas.

D. DISCUSSION:

- The Eagle Soaring 2025 Plan, Chapter One – Introduction, Section 1.4 Relationship to Ada County Planning, indicates it is the desire of the City of Eagle to have the majority of the urban development occur under the jurisdictional authority of the City and connect to municipal services. The plan goes on to identify in Chapter 2 – Community Design, Section 2.5 Implementation Strategies, s.) All urban development shall occur under the jurisdictional authority of the City and be connected to municipal services. The proposed Lanewood Estates Subdivision is contiguous to the City of Eagle therefore, to comply with the Eagle Soaring 2025 Plan, this development should occur under the jurisdictional authority of the City. The applicant should submit an application to the City of Eagle for an annexation, rezone, conditional use permit, planned unit development, and preliminary plat for Lanewood Estates Subdivision.
- Lanewood Estates Subdivision is subject to the requirements outlined within the Eagle Area of Impact Agreement between Ada County and the City of Eagle. Subdivisions in the Impact Area

shall be evaluated for conformance with the City of Eagle's Subdivision Code, Title 9, Chapter 3, and Title 9 Sections 9-4-1-1 through 9-4-1-12. The proposed development as shown on the preliminary plat date stamped by the City on April 3, 2007, shows lots ranging from 7,700-square feet to 28,046-square feet in size. The applicant is requesting an R2 zoning designation through Ada County, which has a 16,000-square foot minimum lot size. Per Eagle City Code Section 9-3-5, lots within any subdivision shall comply in all respects with the official height and area regulations as set forth in section 8-2-4 of the code. Per Eagle City Code Section 8-2-4, Schedule of Building Height and Lot Area Regulations, the minimum lot size within an R-2 (Residential-up to two units per acre) zone is 17,000 square feet. The applicant is proposing 381-buildable lots within the subdivision, 237 of those lots, approximately 62%, are below the minimum lot size of an R-2 (Residential-up to two units per acre) zone. The Building Height and Lot Area Regulations also provides for a decrease of minimum lot size in a subdivision be allowed if there is an offsetting increase of the same square footage in open space and a planned unit development is applied for and approved. As provided within this report within the Staff Finding of Facts, Section H, Site Data, the required amount of open space for this development per Eagle City Code 9-3-5, would be 2,215,965-square feet (50.87-acres), which is 26.7% of the site based on a 17,000-square foot minimum lot size. This figure is based on an offsetting increase in open space of 1,386,147-square feet (31.82-acres) plus the required ten percent (10%) open space of 829,818-square feet (19.05 acres). The applicant should provide a revised preliminary plat showing an additional 1,386,147-square foot (31.82-acres) of open space for a total of 2,215,965-square feet (50.87-acres).

- The Eagle Comprehensive Plan designates the property as "Residential Two" with a density not to exceed two units/acre. The "Residential Two" designation was envisioned to primarily allow for single family residential development within areas that are rural in character. The Eagle Soaring 2025 Plan designates the property to be located within the "Village Planning Area" with the overall densities south of Beacon Light Road to average one to two units/acre. The proposed Lanewood Estates Subdivision has a density of two units per acre.
- This development proposes features that may be considered comparable to the City of Eagle's requirements for residential subdivisions with the exception of the amount of required open space proposed. Design elements include street sections with five foot (5') wide concrete sidewalks separated by an eight foot (8') wide landscape strip abutting both sides of the roadways, and buffer areas abutting all roadways bordering the four (4) sides of the development. The 35.36-acres of open space includes interconnecting pathways throughout the development, natural surface paths adjacent to the large drainage ditches, five (5) open space areas larger than one (1) acre in size, a swimming pool with a changing room, and four (4) tot lots.
- The applicant should be required to place a note on the final plat which states that, "All lots and construction shall comply in all respects with the official height and area regulations as set forth in Section 8-2-4 of the Eagle City Code" per Eagle City Code 9-3-5 (A) or as otherwise approved by the Conditions of Approval within the Development Agreement associated with Lanewood Estates Subdivision.
- The preliminary plat date stamped by the City on April 3, 2007, shows the cul-de-sac street N. Premier Place to be approximately eight hundred feet (800') in length. North Premier Place provides access to twenty two (22) residential lots. Eagle City Code prohibits cul-de-sac streets to be more than five hundred feet (500') in length. The applicant should provide a revised preliminary plat showing N. Premier Place to not exceed five hundred feet (500') in length or provide a bulb-out at midpoint which provides an adequate area to turn emergency equipment around.

- The subject property is located in an area that the City of Eagle has identified to be within the City's water service area. The applicant has indicated within their narrative dated January 22, 2007, that water will be provided by United Water. Per Eagle City Code Section 9-4-1-9, states in part that all public water supply or sewer systems (serving 2 or more separate premises or households) shall be constructed in accordance with any adopted local plans and specifications. Per Eagle City Code Section 9-3-8, all subdivisions within the Eagle city water service area shall comply with Title 6, Chapter 5, of this code. Since the proposed development is located in the City of Eagle's water service area the applicant should be required to connect to City of Eagle water system.
- Per Eagle City Code Section 9-3-5, lots within any subdivision shall comply in all respects with the official height and area regulations as set forth in Section 8-2-4. The proposed setbacks as shown on the preliminary plat date stamped by the City on April 3, 2007, shows the setbacks for lots within this development:

<u>Setbacks:</u>	<u>Lots >16,000 square feet</u>	<u>Lots < 16,000 square feet</u>
Front	25'	20'
Rear	20'	15'
Interior Side	5' (per story)	5' (total)
Street Side	20'	20'
Maximum Coverage	25%	N/A

It is staff's opinion that reduced setbacks should only be permitted for lots less than 17,000 square feet in size. The following setbacks and maximum coverage for this development should be required:

<u>Setbacks:</u>	<u>Lots >17,000 square feet</u>	<u>Lots < 17,000 square feet.</u>
Front	30'	20' (measured from back of sidewalk)
Rear	30'	25'
Interior Side	10'	5' (per story)
Street Side	20'	20'
Maximum Coverage	40%	40%

- The preliminary plat date stamped by the City on April 3, 2007, indicates within the notes of the plat that all lot lines common to a public right-of-way shall have a ten foot (10') wide easement. The plat does not reference or delineate additional utility easements. Per Eagle City Code Section 9-3-6, unobstructed utility easements shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary. Total easement widths shall not be less than twelve feet (12') on all lots 17,000-square feet and greater. The interior lot line easement on lots less than 17,000-square feet should be ten feet (10') wide in total width. The applicant should provide a revised plat with a plat note describing the easement widths to be as so noted.
- The Chevron Pipeline bisects the northeast corner of this property. The preliminary plat date stamped by the City on April 3, 2007, shows the pipeline to be located within a sixteen and one half foot (16.5') wide easement which bisects Lot 16, Block 13, and adjacent to the rear lot lines of Lots 2-6, Block 14 and Lot 15, Block 13. Although a regional pathway plan has not been completed for the area west of Linder Road it should be noted that the Transportation/Pathway Network Map #1 of 2 delineates a multi-use pathway to be located on the area where the Chevron pipeline is located east of Linder Road. Past City Council action has required that a ten foot (10') regional pathway be constructed within a minimum twenty foot (20') wide common lot located over the Chevron pipeline. The applicant should provide a revised preliminary plat showing a twenty foot wide (20') wide common lot to be located over the Chevron pipeline.

- The preliminary plat date stamped by the City on April 3, 2007, indicates within the notes of the plat that a pressurized irrigation system will be provided and that the system will be maintained by the homeowner's association. The plat also delineates the location of the pressurized irrigation lines (PIRR). The line locations and flows should be reviewed and approved prior to approval of a final plat.

STAFF RECOMMENDATION:

Staff recommends denial of the requested subdivision. A recommendation of approval could be obtained if the following concerns could be addressed:

- Applicant submits applications to the City of Eagle for an annexation, rezone with a development agreement, conditional use permit, planned unit development, and preliminary plat for Lanewood Estates Subdivision to meet the intent of the Comprehensive Plan.
- Place a note on the final plat which states that, "All lots and construction shall comply in all respects with the official height and area regulations as set forth in Section 8-2-4 of the Eagle City Code" or as otherwise approved by the Conditions of Approval within the Development Agreement associated with Lanewood Estates Subdivision.
- Applicant should provide a revised preliminary plat showing N. Premier Place to not exceed five hundred feet (500') in length or provide a bulb-out at midpoint which provides an adequate area to turn emergency equipment around.
- The applicant shall be required to connect to City of Eagle water.
- The following setbacks should apply for Lanewood Estates Subdivision:

<u>Setbacks:</u>	<u>Lots >17,000 square feet</u>	<u>Lots < 17,000 square feet.</u>
Front	30'	20' (measured from back of sidewalk)
Rear	30'	25'
Interior Side	10'	5' (per story)
Street Side	20'	20'
Maximum Coverage	40%	40%

- Provide a revised plat with a plat note describing unobstructed utility easements shall be provided along front lot lines, rear lot lines, and side lot lines to be twelve feet (12') in width and five feet (5') in width adjacent to interior lot lines of lots less than 17,000-square feet in size.
- Provide a revised preliminary plat showing a twenty foot wide (20') wide common lot to be located over the Chevron pipeline.

Submitted by:

Michael Williams, PCED
Planner II

April 27, 2007
Date



Mayor: Nancy C. Merrill

CITY OF EAGLE

P.O. Box 1520
Eagle, Idaho 83616
939-6813

Council: Stanley J. Bastian
Phil Bandy
Steve Guerber
Scott Nordstrom

May 9, 2007

Ada County Development Services
Attn: Leslie Toombs, Planner II
200 West Front Street
Boise, ID 83702-7300

SUBJECT: 200700017 – S/ZC/PUD/DA – Lanewood Estates Planned Unit Development

Dear Ms. Toombs:

On May 7, 2007, the Planning and Zoning Commission voted 3 to 1 (McCarrel against, Pierce absent) to recommend denial of this application. A recommendation of approval could be obtained if the following concerns could be addressed:

1. Applicant submits applications to the City of Eagle for an annexation, rezone with a development agreement, conditional use permit, preliminary development plan, and preliminary plat for Lanewood Estates Subdivision to meet the requirements of the Comprehensive Plan.
2. The applicant shall be required to connect to become a part of the City's municipal water system as required by the Comprehensive Plan and Eagle City Code, Title 9, Chapter 3, Section 9, as required within the adopted City of Eagle and Ada County Area of Impact Agreement.
3. Meet all the requirements of the City of Eagle's Subdivision Code, Title 9, Chapter 3, and Title 9 Sections 9-4-1-1 through 9-4-1-12 as adopted within the Area of Impact Agreement between the City of Eagle and Ada County.
4. The developer shall provide 697,376-square feet (16.01-acres) additional open space for a total of 2,237,863-square feet (51.37-acres) (26.7%) to meet the offsetting open space required for all lots below the minimum lot size of 17,000 square feet.

Following the Eagle City Council meeting of April 15, 2007, a letter regarding the Council's decision will be sent to you. If you have any questions, I can be reached at 939-0227.

Sincerely,

Michael Williams, PCED
Planner II

cc: Mayor Merrill
Eagle City Council
file

ORDINANCE NO. 623

AN ORDINANCE AMENDING ADA COUNTY CODE TITLE 9, CHAPTER 2, SECTION 2 AND 3, PROVIDING FOR THE ADOPTION OF AN AMENDED CITY OF EAGLE COMPREHENSIVE PLAN AS ADOPTED BY THE CITY OF EAGLE ON SEPTEMBER 14, 2004.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO THAT TITLE 9, CHAPTER 2, SECTION 9-2-3 OF THE ADA COUNTY CODE BE AMENDED AS FOLLOWS, WITH THE TEXT OF THE FOOTNOTES IDENTIFIED HEREIN REMAINING UNCHANGED:

Section 1: Ada County Code Sections 9-2-1 is amended as follows:

9-2-1: AREA OF CITY IMPACT BOUNDARY:

A. Eagle Area Of City Impact And Urban Service Planning Area Boundary Map:

1. The Eagle area of city impact and urban service planning area are the areas designated on the Eagle area of city impact and urban service planning area boundary map, fully incorporated by reference, copies of which are available for inspection at the Ada County development services department.

2. Amendments to the map are as follows:

- a. Ordinance 199, May 25, 1989.
- b. Ordinance 309, June 25, 1996.
- c. Ordinance 355, March 25, 1998.
- d. Ordinance 367, December 2, 1998.
- e. Ordinance 539, April 28, 2004.
- f. Ordinance 602, December 28, 2005.
- g. Ordinance 623, June 28, 2006.

B. Division By Boundary Line: In case a property under single ownership is divided by the boundary line of the Eagle area of city impact, if such line divides such property so that one or both of the parts has a depth of three hundred feet (300') or less, such part may be included in the jurisdiction within which the remainder and larger portion of the property is located.

Section 2: Ada County Code Section 9-2-3 is amended as follows:

9-2-3: APPLICABLE PLAN POLICIES AND ORDINANCES:

A. The Eagle comprehensive plan, as amended by the city of Eagle ~~February 16, 2004, by resolution 04-01~~ September 14, 2005 by Resolution 04-15, shall apply within the Eagle area of city impact.

B. Applications for subdivision development in the Eagle area of city impact shall be evaluated for conformance to the design and improvement standards contained in the Eagle city code, title 9, chapter 3, and in chapter 4, sections 9-4-1-1 through 9-4-1-12.

C. All subdivision plats situated within the area of city impact shall be submitted to the city of Eagle for their recommendation.

D. The Ada County zoning ordinance shall be used to implement this chapter.

E. Ada County shall use the following standard in calculating density of residential development: the total number of dwelling units within a proposed development, divided by the total land area. Fractional amounts greater than those designated on the Eagle comprehensive plan land use map will not be allowed except where the Eagle comprehensive plan details a fractional density and then the density shall not exceed the number described in the Eagle comprehensive plan. Floodway areas and land used for public uses such as schools or public service facilities will not be included in the total land area calculation.

ADOPTED this 28th day of June, 2006.

Board of Ada County Commissioners

By: _____
Rick Yzaguirre, Chairman

By: _____
Judy M. Peavey-Derr, Commissioner

By: _____
Fred Tilman, Commissioner

ATTEST:

J. David Navarro, Ada County Clerk

PUBLISHED: July 13, 2006

ORDINANCE NO. 623 - PAGE 2

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From: Bob Burns
To: seb@msbtlaw.com
Date: 8/8/2007 2:01:16 PM
Subject: Re: Lanewood

Susan, please do not feel pressured to respond to this e-mail until after the funeral, but when you get the chance can you please address Chris Yorgason's below question/concern, which I share. Thanks. Bob

>>> Chris Yorgason <cyorgason@cableone.net> 8/8/2007 11:53 AM >>>
Bob~

As I read the Protestants brief, a serious question in raised in my mind. They state that of the 8.9cfs sought, 6.68 is supposed to be reserved for fire protection only. If they are right, that leaves 2.22cfs for domestic uses. In the Preliminary Order issued by IDWR, they state that the combined number of houses in Eaglefield and Legacy is 2000 homes. (Preliminary Order, page 7, par. 7). Further down in the Order, IDWR found that the peak demand of those 2000 homes is 2.23cfs. (P.Order., pg. 7, par. 10).

So....my question...if only 2.22 or 2.23cfs of the total water right can be used for domestic purposes AND that 2.23cfs is needed for 2,000 homes AND those 2,000 homes are already planned for Eaglefield and Legacy, where is the water going to come from to service the homes in Lanewood? I am not sure if the Protestants are right, but if they are, it looks like Eagle does not have sufficient water rights to serve our property.

Chris

CC: Chris Yorgason; Dave Yorgason; Ramon Yorgason

From: Bob Burns
To: Susan E. Buxton
Date: 8/16/2007 10:29:33 AM
Subject: RE: Dave Yorgason

Susan, attached is the schedule you requested. Based on the September start date reflected in this schedule (which is necessary if the paving is to be completed before frost will stop paving activities for the building season), my client is absolutely desperate to obtain assurance that the water will "be there" when needed, as Eagle has been promising since May. Accordingly, my client has no alternative but to seek to have the stayed PUC matter rescheduled for hearing as soon as possible. Please call to discuss this matter at your first opportunity, as my client simply cannot afford to wait any longer in the hope that the protestants to Eagle's new water rights (and the conditions imposed in the preliminary order) will not prevent Eagle from servicing Lanewood Estates when the water is needed next month. Bob

Robert B. Burns
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P. O. Box 829
Boise, ID 83701-0829
208-345-2000
800-422-2889
208-385-5412 (direct)
208-385-5384 (fax)
rbb@moffatt.com

>>> "Susan E. Buxton" <SEB@msbtlaw.com> 8/14/2007 10:53 AM >>>
We would need to know information regarding the status of final plat, construction of utilities, building permits, etc. Susan

Susan E. Buxton
Moore Smith Buxton & Turcke, Chartered
950 W. Bannock Street, Suite 520
Boise, Idaho 83702
Phone: 208/331-1800
Fax: 208/331-1202
seb@msbtlaw.com

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

From: Bob Burns [<mailto:RBB@moffatt.com>]
Sent: Tuesday, August 14, 2007 10:42 AM

To: Susan E. Buxton
Cc: Chris Yorgason; Ramon Yorgason; Dave Yorgason
<dyorgason@cableone.net
Subject: Re: Dave Yorgason

I can try. If you will let me know what information you are looking for, I will forward your request on to my clients for a response. Bob

>>> "Susan E. Buxton" <SEB@msbtlaw.com> 8/14/2007 10:41 AM >>>
Bob:

Yesterday, Dave apparently talked to Steve Guerber and indicated his dissatisfaction with the City. We have been providing updates to you but Dave appeared to not have been apprised of the City's status. The City is moving forward on their end but needs some concrete information from your clients as to the status of their project. Can you provide that information for us? Susan

Susan E. Buxton
Moore Smith Buxton & Turcke, Chartered
950 W. Bannock Street, Suite 520
Boise, Idaho 83702
Phone: 208/331-1800
Fax: 208/331-1202
seb@msbtlaw.com

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avoiding
any penalties that may be imposed by the Internal Revenue Service.

CC: Bruce M. Smith; Dave Yorgason <dyorgason@cableone.net>; Joe Miller; Ramon Yorgason; Yorgason, Chris

Lanewood Estates
Schedule as of August 20, 2007

<u>Description</u>	<u>Status</u>
Planning & Design	
Identify Gov't Agency Intentions for Site	Complete
Conceptual Design	Complete
Finalize Preliminary Plat Design	Complete
Entitlements	
ACHD	Complete
Ada County	Complete
Design Construction Plans (Phase 1)	
Topography site	Complete
Finalize Phase 1 Plat Design	Complete
Street Section	Complete
Design Utilities - sewer	Complete
Design Utilities - water	Complete
Design Utilities - storm drainage	90 % complete
Design Utilities - irrigation	80 % complete
Off-site Power	Complete
Final Design	Estimate complete on 8/21/07
Review / Approve Plans (Phase 1)	
ACHD	Estimate approval on 9/11/07
Eagle Sewer	Estimate approval on 9/7/07
Water	Estimate approval on 9/5/07
Joint Trench Utilities	Estimate approval on 9/5/07
Construction (Phase 1)	
Excavate Streets	Estimate start 9/5/07
Sewer	Start 9/14/07
Water	Start 9/19/07
Storm Drain	Start 10/1/07
Irrigation	Start 10/8/07
Joint Trench Utilities	Start 10/15/07
Prep Concrete	Start 11/5/07
Concrete	Start 11/12/07
Pave Streets	Start 11/19/07
Complete Construction	11/26/2007

Note: Preparation of construction plans could have started after Ada County P&Z approval on May 24, 2007, but was delayed to see if Eagle could obtain the water rights to serve Legacy Estates.

From: Bob Burns
To: Susan E. Buxton
Date: 9/13/2007 6:49:35 PM
Subject: Re: Eagle Status Report to Lanewood/CDI

Susan, as I have now asked you and Bruce repeatedly to do without success, would you please provide me with reasonable documentation establishing that the City has water rights that can be accessed at the boundary of the Lanewood development to service that property. The fact that the City may have water rights in other locations but which cannot be used to service the Lanewood development is both misleading and meaningless for the purposes of the present PUC proceeding. Regards. Bob

Robert B. Burns
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P. O. Box 829
Boise, ID 83701-0829
208-345-2000
800-422-2889
208-385-5412 (direct)
208-385-5384 (fax)
rbb@moffatt.com

>>> "Susan E. Buxton" <SEB@msbtlaw.com> 9/13/2007 12:25 PM >>>
Bob:

Pursuant to the May 23, 2007 agreement between CDI and the City of Eagle, the City has been providing periodic updates on the City water services. With this email, the City is notifying CDI that it has sufficient water rights to serve the development. However, the City has not received an annexation application or any plans from CDI as required by the Agreement. Please let me know when CDI will be submitting the annexation application and the plans to the City for review.

Thank you,
Susan

Susan E. Buxton
Moore Smith Buxton & Turcke, Chartered
950 W. Bannock Street, Suite 520
Boise, Idaho 83702
Phone: 208/331-1800
Fax: 208/331-1202
seb@msbtlaw.com

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discovery.

CC: bms@msbtlaw.com; Joe Miller; Ramon Yorgason; Yorgason, Chris; Yorgason, Dave

Gene P Smith, P.E.
Engineering NorthWest
(208)376-5000
Fax: (208)376-5556

SUBJECT: Lanewood Estates 200700017 S-PUD-ZC-DA Grading permit waiver

Professional Smith,

After reviewing the data supplied in your September letter concerning a waiver of a required Ada County Grading Permit for the Lanewood Estates Subdivision, I approve your request to waive the Ada County Grading Permit.

Please be cautioned, however, that this does not allow any different approach to the grading of the subdivision than has been explained in your letter. It is not acceptable, for instance to place any of the spoils from the excavation on building lots, or change the drainage plan unless other approval is obtained.

In addition:

- Waiving this permit requirement does not establish that all soils are acceptable for supporting building construction. Once Ada County Building Permits are obtained for individual structures, it may be necessary to analyze individual building sites for acceptable soil compaction. We really will not be able to assess the condition of the soils until the foundation excavation has taken place.
- Waiving this permit requirement does not give license to violate any portion of the Ada County Building Code, like the details subsequent, or any other local state or federal code or law.
 - Final location of all grading construction spoils. The compacted fill materials below two feet (2') in depth from finished grade shall have a minimum allowable bearing capacity of 1,500 pounds per square foot.

- Maximum and minimum elevations for all basement and crawl space floors. Maximum and minimum elevations for the top of foundation walls. Maximum elevation for lot/property boundary lines to provide positive drainage from building sites.
- Requirements for swales or drainage devices to manage storm water and landscape irrigation runoff.

Please contact me with any questions concerning the new grading ordinance.

Ken Sommer

Building Official
Ada County Development Services Building Division
200 W. Front St. Rm. 2125
Boise, ID 83702
☎ (208) 287-7928
☎ (208) 287-7909
✉ kens@adaweb.net

PHONE (208) 287-7900
FAX (208) 287-7909

ADA COUNTY DEVELOPMENT SERVICES

200 W. FRONT, BOISE, IDAHO 83702-7300



BUILDING • ENGINEERING • PLANNING • ZONING

September 12, 2007

Engineering Northwest, LLC
423 N. Ancestor Place
Boise, ID 83704

Attn.: Eugene P. Smith, P.E.

Re: DRAINAGE PLAN FOR LANEWOOD ESTATES SUBDIVISION NO 1
File 200700017 (S, DA, ZC)

Dear Mr. Smith,

The drainage plan submitted for Lanewood Estates Subdivision No. 1, consisting of thirteen drawings (Sheet 1 Cover Sheet & Notes with your stamp dated 9/11/07, Sheets 2-9 with your stamp dated 8/23/2007, Sheet 1 Drainage Plan with your stamp dated 8/23/2007, Sheets 1 & 2 of 4 of the plat for reference), eleven pages of calculations with your stamp dated 8/22/2007 with attached soil and water level reports by Associated Earth Sciences, Inc., and your letter dated September 11, 2007, is approved with the condition that the grading of individual lots shall not create a drainage problem for adjacent lots/properties and each building pad shall be provided with adequate slopes toward approved drainage facilities (see applicable building code section). It is your responsibility to see that the developer is aware of these requirements; the developer is responsible to see that they are achieved.

Sincerely,

David Wells, P.E.
ASSISTANT COUNTY ENGINEER
Ada County Development Services
DLW/dw
File 200700017 (S, DA, ZC)

From: Bob Burns
To: seb@msbtlaw.com
Date: 6/7/2007 2:29:58 PM
Subject: Eagle/Capital Development--Water Status Report

Susan, can you let me and Chris know by return e-mail how we can get our hands on the first biweekly status report? Thanks. Bob

Robert B. Burns
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P. O. Box 829
Boise, ID 83701-0829
208-345-2000
800-422-2889
208-385-5412 (direct)
208-385-5384 (fax)
rbb@moffatt.com

>>> Chris Yorgason <cyorgason@cableone.net> 6/7/2007 9:11 AM >>>
Bob~

Have you received a progress report from the City of Eagle on their water issues? By our calculations, their two weeks was yesterday and we did not receive anything here. If you have not received a report, where should we send a request? To city staff? Their attorneys? Should that request come from you or us? Your thoughts?

Chris

CC: Chris Yorgason; Dave Yorgason; Ramon Yorgason

From: Bob Burns
To: clb@msbtlaw.com
Date: 6/25/2007 7:28:16 AM
Subject: Fwd: Eagle/Capital Development

Cheryl, I got a responsive e-mail message that Susan was out of the office and I should forward the below e-mail to you. I suspect this should go to Bruce. Thanks. Bob

>>> Bob Burns 6/25/2007 7:23 AM >>>

Susan, I believe the second status report from Eagle was due last week. Can you see if you can get us an update on where things stand. Thanks. Bob

Robert B. Burns
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
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Boise, ID 83701-0829
208-345-2000
800-422-2889
208-385-5412 (direct)
208-385-5384 (fax)
rbb@moffatt.com

CC: seb@msbtlaw.com

From: Bob Burns
To: seb@msbtlaw.com
Date: 8/7/2007 7:15:19 PM
Subject: Eagle/Lanewood Development--Water Status Report

Susan, could you please ask Dave Milan to issue a current water status report, which was due today. Thanks. Bob

Robert B. Burns
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P. O. Box 829
Boise, ID 83701-0829
208-345-2000
800-422-2889
208-385-5412 (direct)
208-385-5384 (fax)
rbb@moffatt.com

CC: Dave Yorgason <dyorgason@cableone.net>; Ramon Yorgason;
Yorgason, Chris

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

The Parties to this Confidentiality and Non-Disclosure Agreement ("Agreement"), are Capital Development Inc., 6200 Meeker Place, Boise, Idaho ("Capital") and United Water Idaho Inc., an Idaho Corporation, 8248 W. Victory Road, Boise, Idaho ("United Water") (hereafter referred to as a "Party", or collectively as "Parties").

In consideration of the party's continuing cooperation in Idaho Public Utilities Commission Case No. UWI-W-07-02, Capital agrees to provide to United Water a copy of that certain Annexation and Cooperation Agreement dated May 23, 2007, between Capital and the City of Eagle, Idaho, herein after the "Confidential Information", and United Water agrees to the following:

Use of Confidential Information.

United Water will maintain the Confidential Information with at least the same degree of care it uses to protect its own proprietary information, but in no case with less than reasonable care. All persons who may be entitled to review, or who are afforded access to the Confidential Information by reason of this Agreement shall neither use nor disclose the Confidential Information for purposes of business or competition, and shall keep the Confidential Information secure as a trade secret, confidential or proprietary information and in accordance with the purposes and intent of this Agreement.

Persons Entitled to Review.

Access to confidential information shall be strictly limited to employees of the United Water and its legal representatives who have executed an Exhibit "A" to this Agreement.

Nondisclosure Agreement.

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT-1

Confidential Information shall not be disclosed to any person who has not signed an Exhibit A.

Copies.

No copies or transcriptions of the Confidential Information shall be made by United Water except as necessary to make the information available to individuals who have executed an Exhibit "A" to this Agreement.

Governing Law and Attorneys' Fees.

This Agreement and the transactions hereunder will be governed by the laws of the State of Idaho, U.S.A., excluding its conflict of laws principles. The parties hereby consent to the personal jurisdiction of the courts of Idaho for any dispute arising out of this Agreement. In the event of any suit, action or proceeding arising out of or relating to this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and reasonable costs incurred.

General.

This Agreement: (i) may be amended or modified only by an express writing signed by an authorized representative of each party; (ii) will not be construed as creating a joint venture, partnership or other form of business association; (iii) is not assignable or delegable in whole or in part by either party without the written consent of the other party; (iv) shall inure to the benefit of and be binding upon the parties, their successors, the assigns of the Parties and the permitted assigns of Recipient; (v) is in the English language only, which language shall be controlling in all respects, and all versions of this Agreement in any other language shall not be binding on the parties hereto; (vi) may be executed in any number of counterpart originals, each of which shall be deemed an original instrument for all purposes, but all of which shall comprise one and the

same instrument; and (vii) may be delivered by facsimile and a facsimile of this Agreement shall be binding as an original.

Remedies Available.

Each Party agrees that a Party hereto shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach or threatened breach of the provision of this agreement, in addition to all other remedies available to a Party at law or in equity.

IN WITNESS WHEREOF, the parties hereto, on their own behalf and on behalf of their Subsidiaries, have caused this Agreement to be executed by their duly authorized representatives.

Dated this 24th day of May, 2007

CAPITAL DEVELOPMENT INC

By: Ramon Yorgason

Name: Ramon Yorgason

Title: President

UNITED WATER IDAHO INC.

By: Gregory P. Wyatt

Name: Gregory P. Wyatt

Title: VICE PRESIDENT

EXHIBIT "A"

I have reviewed the foregoing Confidentiality and Non-Disclosure Agreement dated May 23, 2007 and agree to be bound by the terms and conditions of such Agreement.

Raman Yorgasan
Name
5000 Fifeshire Pl. Boise
Residence Address
Capital Development Inc.
Employer or Firm
10200 No. Meeker Pl.
Business Address

Party
May 23, 2007
Date