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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for City of Eagle, Idaho

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF )</b>	<b>CASE NO. UWI-W-07-02</b>
<b>UNITED WATER IDAHO INC. TO AMEND AND) )</b>	
<b>REVISE CERTIFICATE OF CONVENIENCE )</b>	<b>CITY OF EAGLE'S MOTION</b>
<b>AND NECESSITY NO. 143. )</b>	<b>TO VACATE HEARING</b>
)	)
)	<b>Expedited Consideration</b>
)	<b>Requested</b>

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COMES NOW the City of Eagle, and pursuant to IDAPA 31.01.01.056 (IPUC Rule 56) and 31.01.01.256 (IPUC Rule 256), moves the Commission to vacate the hearing in the above matter which is currently set for September 24, 2007. Since testimony is to be filed by September 17, 2007, the City requests that date be vacated as well.

Since this motion requests procedural and substantive relief on less than fourteen (14) days notice, the City has provided actual notice of the motion by contacting counsel for all parties by telephone and by personal delivery of the motion pursuant to Rule 256.02b.

Pursuant to Rule 256.02 and Rule 56, the City of Eagle submits the following facts in support of its motion and in support of its request that the Commission act on less than fourteen (14) days notice.

This matter was originally set for hearing on May 24, 2007. On that day the City of Eagle and Capital Development requested the matter be stayed until the first available hearing date after August 24, 2007. The requested stay was based on the fact that on May 23, 2007, the City of Eagle and Capital Development reached agreement (Agreement) on settling this matter. See Exhibit 1 (copy attached). This Agreement was a memorialization of proceedings at a City of Eagle City Council meeting on May 22, 2007 and continuing to May 23, 2007, during which Capital Development agreed to annex into the City and utilize City water services. See Exhibit 2 Meeting Minutes (copy attached).

Under the Agreement, the City of Eagle was to withdraw its objections to the applications filed by Capital Development at Ada County and to provide periodic updates to Capital Development about the status of water service plans for the development. Capital Development, in turn, was to “promptly file” an annexation application with the City upon approval of its applications with the County and to submit “all improvement plans” and “plans for water service” to the City for expeditious review.

Upon approval of the settlement, the City immediately filed a letter with Ada County on May 24, 2007, withdrawing its objections to the applications filed with the County. On July 11, 2007, the County approved Capital Development’s preliminary plat and related applications. In the intervening period, the City has provided status reports on development of water services to Capital Development on approximately a two-week schedule as set forth in the Agreement.

To date, however, Capital Development has not filed any application for annexation with the City nor submitted any development plans for the City to review, and specifically has submitted no plan for water services. Despite the lack of information from Capital Development, the City has proceeded to ensure that it has water rights sufficient to serve the development and has notified Capital Development of the same.

The puzzling lack of any communication by Capital Development has now become evident. Unknown to the City, Capital Development and United Water entered into a Confidentiality Agreement at some point subsequent to Capital Development's entering the Agreement with the City. On September 7, 2007, the City learned of the Confidentiality Agreement between United Water and Capital Development and that United Water and Capital Development had been undertaking to provide service to the development by United Water in direct contradiction to the agreement between Capital Development and the City. The City was completely unaware of the Confidentiality Agreement and the fact that United Water and Capital Development had been secretly planning for provision of service by United Water. The City has requested a copy of the Confidentiality Agreement but to date has not been provided one by either United Water or Capital Development.

The City considers Capital Development to be in breach of the Agreement entered into in settlement of the present case before the Commission. The City withdrew its objection to the Capital Development applications filed with the County and provided status reports as required by the Agreement. The City has prepared for and to date remains ready to expeditiously review any improvement plans, including water service plans, submitted by Capital Development to the City. The City has requested Capital Development submit those plans and the annexation application. See Exhibit 3 (copy attached).

The City has also requested a meeting with Capital Development which is scheduled for September 18, 2007. The purpose of the meeting is to discuss the plans for development, the provision of water by the City, and the issues surrounding the Agreement between the City and Capital Development, including Capital Development's breach of the Agreement.

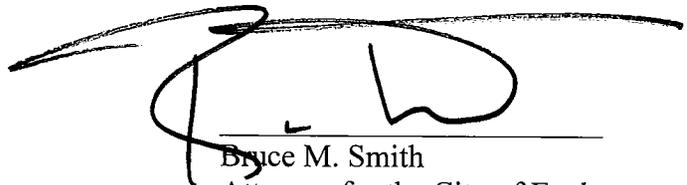
The meeting with Capital Development on September 18, 2007 was the earliest available time for a meeting. The Commission's scheduling order in this matter requires the submission of

testimony on September 17, 2007, with a hearing date of September 24, 2007. If the testimonial filing date is maintained and the hearing proceeds, the parties will be required to incur needless expense in preparing for a hearing which the City does not believe is justified because of the Agreement between the City and Capital Development. Further, given the turn of events described above and the City's need to prepare for a hearing if it does go forward, the current schedule seriously prejudices the City in preparing for the hearing.

The City is at a significant disadvantage in the current situation because it has sought to secure water for service to the development, while at the same time it has not received any information, plans, or other information from Capital Development. The City remains committed to meeting its obligations under the Agreement as well as protecting its rights and interests. Given this unexpected and unanticipated situation and the Agreement between the City and Capital Development, the City requests that the Commission give expedited consideration to the City's motion to vacate the testimonial filing date and vacate the hearing. (The City has also requested that Capital Development notify the Commission to vacate the hearing but, to date, Capital Development has refused.)

If the Commission chooses to not vacate the testimonial filing date and hearing date, the City requests that the hearing date be continued for forty-five (45) days so that the City may undertake discovery in the form of depositions of Capital Development and, if necessary, United Water so that City may file appropriate testimony in this matter and prepare for hearing.

Respectfully submitted this 13 day of September, 2007.



Bruce M. Smith  
Attorney for the City of Eagle

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13 day of September, 2007 I served a true and correct copy of the foregoing document via the method indicated below to:

Dean J. Miller, Esq.  
McDevitt & Miller LLP  
420 West Bannock Street  
PO Box 2564  
Boise, ID 83701

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Gregory P. Wyatt  
United Water Idaho, Inc.  
PO Box 190420  
Boise, ID 83719

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
PO Box 83720  
Boise, ID 83720-0074

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Scott Woodbury  
Idaho Public Utilities Commission  
472 West Washington Street  
PO Box 83720  
Boise, ID 83720-0074

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- Hand Delivered
- Overnight Mail
- Facsimile

Robert B. Burns  
Moffatt Thomas Barrett Rock &  
Fields, Chtd.  
101 S. Capitol Blvd., 10<sup>th</sup> Floor  
PO Box 829  
Boise, ID 83701

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

J. Ramon Yorgason  
President, Capital Development, Inc.  
6200 N. Meeker Place  
Boise, ID 83713

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

  
\_\_\_\_\_  
Bruce M. Smith

## 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").

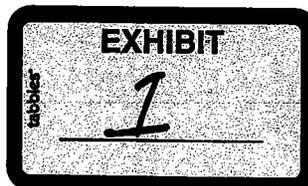
### *PRELIMINARY STATEMENT*

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

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### EAGLE CITY COUNCIL

Minutes

May 22, 2007

continued to

May 23, 2007

#### 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 5<sup>th</sup>. 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 5<sup>th</sup> 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 29<sup>th</sup> to be discussed after Lakemore.

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

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

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 1<sup>st</sup> 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 8<sup>th</sup> and 9<sup>th</sup> 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 8<sup>th</sup> and 9<sup>th</sup> 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 24<sup>th</sup> 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 23<sup>rd</sup> 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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# MOORE SMITH BUXTON & TURCKE, CHARTERED

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† Also admitted in New Mexico  
\* Also admitted in Oregon  
° Also admitted in South Dakota  
‡ Also admitted in Washington

September 13, 2007

**VIA FACSIMILE (208) 385-5384**

Mr. Robert B. Burns  
Moffatt Thomas Barrett Rock & Fields, Chtd.  
101 S. Capitol Blvd., 10<sup>th</sup> Floor  
Boise, ID 83701

RE: Annexation and Cooperation Agreement  
Between the City of Eagle and Capital Development Inc.

Dear Bob:

As you are aware, the City of Eagle and Capital Development Inc. (CDI) have an Annexation and Cooperation Agreement (copy attached) which addresses the annexation of certain property by Lanewood Investments LLC and provision of water service to the development by the City of Eagle. Paragraph 3 of the Agreement provides for the City to withdraw its objections to CDI's applications with Ada County, and Paragraph 1 requires status reports approximately every two weeks from the City, which the City has provided. Under paragraph 4 of the Agreement, CDI was to apply to annex the property immediately following Ada County's approval of CDI's applications and submit improvement plans, including water service plans, for the City to review.

In compliance with the Agreement signed May 23, 2007, the City immediately withdrew its objections with Ada County (letter dated May 24, 2007, copy attached), and CDI's applications were approved by Ada County on July 11, 2007. To date, the City has not received an annexation application or any of the required information from CDI about development plans or improvement plans for the water system for the development. It has now come to the City's attention that CDI and United Water have entered into a Confidentiality Agreement and collectively undertaken a process to plan for provision of water service to the development by United Water. This action was taken with no notice or other communication to the City of Eagle. According to the City Engineer and City planning staff, there has been no information or communication from CDI about the status of plans for the development or the submission of any



improvement plans for the City to review.

The City of Eagle has, in fulfillment of the Agreement to provide water service to the development, provided status reports as required by the Agreement and undertaken in good faith to ensure it had sufficient water rights to serve the development. This is notice that the City has those water rights and will meet its commitment to provide service consistent with the Agreement.

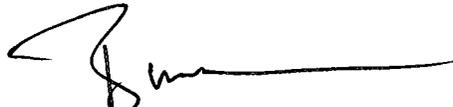
CDI and UWI have asked the IPUC to schedule a hearing on September 24, 2007. The hearing is unnecessary and will cause the parties to needlessly incur additional expense. The City is requesting that CDI immediately notify the IPUC that the hearing is unnecessary, and that CDI notify United Water that water service will be provided by the City of Eagle and that the Application of United Water Idaho Inc. to Amend and Revise Certificate of Convenience and Necessity No. 143 should be withdrawn. In order to begin to cure CDI's default under the Agreement, the City is also requesting that CDI promptly submit its application to annex into the City of Eagle and provide the improvement plans and water service plans referred to in the Agreement for the City's review.

The City is disappointed that CDI appears to be trying to avoid the clear intent of the Agreement by working in secret with United Water to plan for service by UWI. The City is also disappointed in CDI's failure to communicate with the City on the planning and development of the property, to provide the documents required by the Agreement, and to breach an Agreement that provided substantial benefits to CDI.

The City is requesting the above actions by CDI in order to avoid needless litigation and proceedings before the IPUC. The requests are made based upon the City's understanding of actions taken by CDI, actions of which the City had no prior knowledge. This letter is also notice that the City reserves the right to pursue all legal remedies available to it against CDI should CDI not meet its obligations under the Agreement. The City is committed to working with CDI on this matter, but the circumstances described above dictate that CDI communicate and cooperate with the City in a good faith effort to meet CDI's obligations under the Agreement.

Sincerely yours,

MOORE SMITH BUXTON & TURCKE, CHTD.



Bruce M. Smith

BMS/dls  
Enclosure

**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:

*NO AP* (a) Eagle shall waive all fees applicable to the annexation application;

*no plans* (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;

*no plans* (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:**

	<b>COMP PLAN DESIGNATION</b>	<b>ZONING DESIGNATION</b>	<b>LAND USE</b>
<b>Existing</b>	Residential Two (up to two units/ acre)	RUT (Ada County Designation)	Agricultural
<b>Proposed</b>	No Change	R2 (Ada County Designation-Low Density Residential)	Single Family, Residential Planned Unit Development
<b>North of site</b>	Transitional Residential	RUT (Ada County Designation)	Residential and agricultural
<b>South of site</b>	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)
<b>East of site</b>	Residential Two (up to two units/ acre)	RUT (Ada County Designation)	Agricultural
<b>West of site</b>	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.

### I. 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 &gt;16,000 square feet</u>	<u>Lots &lt; 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 &gt;17,000 square feet</u>	<u>Lots &lt; 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 &gt;17,000 square feet</u>	<u>Lots &lt; 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

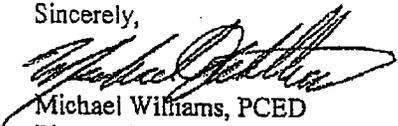
Dear Ms. Toombs:

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:

**ORDINANCE NO. 623 - PAGE 1**

x:\donna\logs\ordinance log\electronic copies\ord623.doc

Exhibit No. 206  
Case No. UWI-W-07-02  
Nancy Merrill, City of Eagle

Exhibit 31

**MOORE SMITH BUXTON & TURCKE, CHARTERED**

ATTORNEYS AND COUNSELORS AT LAW

950 W. BANNOCK STREET, SUITE 520  
BOISE, ID 83702  
TELEPHONE: (208) 331-1809 FAX: (209) 331-1202

STEPHANIE J. BONNEY  
SUSAN E. BUXTON\*  
PAUL J. FITZER  
MICHAEL C. MOORE†  
BRUCE M. SMITH  
PAUL A. TURCKE\*  
CARL J. WITHROB\*  
TAMMY A. ZORAN\*

RECEIVED & FILED CITY OF EAGLE  MAY 24 2007  File: _____ Route: _____ of Council
---

\* Also admitted in California  
\* Also admitted in New Mexico  
\* Also admitted in Oregon  
\* Also admitted in South Dakota  
† Also admitted in Washington

May 24, 2007

**VIA FACSIMILE (208) 287-7909**

Ada County Planning and Zoning Commission  
And Ada County Development Services  
Attn: Leslie Toombs, Planner II  
200 West Front Street  
Boise, Idaho 83702-7300

Re: *Public Hearing before th Ada County Planning & Zoning  
Commission for 200700017-S/ZC/PUD/DA  
Lanewood Estates Planned Unit Development*

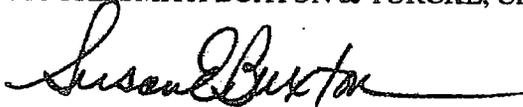
Dear Planning and Zoning Commissioners:

Our firm represents the City of Eagle as its City Attorney. As a result of several meetings with the Applicant on the above-entitled project, the City of Eagle withdraws its opposition to the application.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,

MOORE SMITH BUXTON & TURCKE, CHTD.



Susan E. Buxton

SEB/clb

cc: The City of Eagle (via email)  
Robert B. Burns, Esq. for Capital Development, Inc. (via email)