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IDAHO PUBLIC
UTILITIES COMMISSION

Attorney for City of Eagle, Idaho

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF) CASE NO. UWI-W-07-02
UNITED WATER IDAHO INC. TO AMEND AND)
REVISE CERTIFICATE OF CONVENIENCE)
AND NECESSITY NO. 143.)
)
)
)**

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION
SUPPLEMENTAL DIRECT TESTIMONY OF VERN BREWER

1 **1. What is your name?**

2 Response: Vern Brewer.

3 **2. Who do you work for?**

4 Response: Holladay Engineering.

5 **3. What is Holladay Engineering's relationship with the City of Eagle?**

6 Response: We are the appointed City Engineer. I am the Project Manager for
7 Holladay Engineering assigned to the City of Eagle.

8 **4. Are you the same Vern Brewer who has previously provided testimony in
9 this matter?**

10 Response: Yes.

11 **5. Do you have any supplemental testimony to add to the testimony previously
12 provided?**

13 Response: Yes. At the last hearing in this matter which occurred on May 24, 2007, I
14 am aware the City of Eagle and Capital Development reached a settlement
15 agreement which is attached as Exhibit 207 to my testimony. That
16 agreement called for the City to withdraw its objections to the applications
17 filed by Capital Development with Ada County, to apply for annexation
18 with the City of Eagle, and to provide development improvement plans,
19 and specifically water improvement plans to the City for review.

20
21 As City Engineer, Holladay Engineering would normally be aware of the
22 annexation application and would be the reviewer for the plans that were
23 to be submitted. I have checked with City Staff and Holladay Engineering

1 Staff and I have information that Capital Development has submitted an
2 annexation application at 9:30 a.m. this morning. Holladay Engineering
3 has received no information or communication from Capital Development
4 about its water improvement plans, or requirements for connection to the
5 City's water system. The City has only had written or oral inquiries
6 from Capital Development regarding water rights and well construction
7 schedules which have been provided in the City's status reports sent to
8 Capital Development through their attorney, Bob Burns.

9
10 As part of its work with the City, Holladay has inspected the area where
11 the development is to take place. As of last week, there is no construction
12 work ongoing. In fact, the site is a cornfield, as shown on the photos
13 as Exhibit 208. It will be quite some time before there will be a need for
14 water service. The City has provided written status reports approximately
15 every two weeks as agreed. The City of Eagle is prepared to provide
16 water service to this development as set forth in the Agreement.

17
18 The well that will provide water is in the final stage of completion. A
19 pipeline from that well has been constructed to the boundary of the
20 Lanewood property. As for water rights to be used for service, the City
21 has a number of resources. The City has existing water rights that can
22 be used if necessary. Since the previous hearing in May, the City has
23 contracted to purchase Eagle Water Corporation and that process is

1 underway. Eagle Water Company has a number of water rights that could
2 be potentially be used. The City also has applications for almost nine (9)
3 cfs of water that received preliminary approval from the Idaho Department
4 of Water Resources. The order approving the applications is being
5 reconsidered but, based on the requests for reconsideration, the City
6 anticipates the applications will be approved in the imminent future. The
7 City had anticipated that the final order would be issued by now, but, for
8 unknown reasons, it has not. Although I cannot be sure, based on
9 discussions with other Holladay Engineering Staff, it could be associated
10 with workload requirements at the IDWR. However, even if the order
11 requires mitigation of any type, the City has already arranged for payment
12 and implementation of any required mitigation.

13
14 Regardless of which of the above described options is finally used, the
15 City can and will provide water service to the development as reflected in
16 the Agreement.

17
18 **6. Does this conclude your supplemental testimony?**

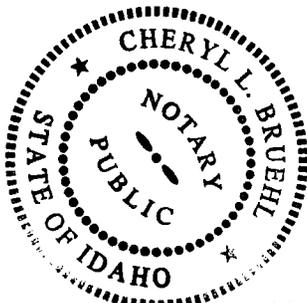
19 Response: Yes.

20

Dated this 17th day of September, 2007.

Vern Brewer
Vern Brewer

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



Cheryl L. Bruhl
Notary Public for IDAHO
Residing at *Boise Id*
My Commission Expires: *03-27-13*

CERTIFICATE OF SERVICE

I hereby certify that on this 17th 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

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

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

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

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

Susan E. Buxton
Susan E. Buxton

ANNEXATION AND COOPERATION AGREEMENT

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

PRELIMINARY STATEMENT

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

AGREEMENT

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

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

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

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

- (a) Eagle shall waive all fees applicable to the annexation application;
- (b) The Property shall be annexed subject to CDI's vested right to develop the Property on those terms and conditions approved by Ada County and otherwise in accordance with Ada County's development ordinances and standards in effect as of the filing of CDI's Applications;
- (c) Eagle shall covenant to expeditiously review all improvement plans submitted by CDI to Eagle with respect to the development of the Property, including, without limitation, the plans for water service; and,
- (d) Eagle shall not adopt an ordinance annexing the Property until water service has been provided to the boundary of the Property for delivery of water.

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

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

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

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

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

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

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

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

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

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

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

ATTEST:



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

CAPITAL DEVELOPMENT, INC. ,
an Idaho corporation

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

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

LANEWOOD INVESTMENTS, LLC,
an Idaho limited liability company

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

**CITY OF EAGLE
PRELIMINARY PLAT STAFF REPORT**

ADA COUNTY TRANSMITTAL

DESCRIPTION: LANEWOOD ESTATES PLANNED UNIT DEVELOPMENT

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

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

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

PLANNING AND ZONING COMMISSION HEARING DATE: May 7, 2007

TENTATIVE CITY COUNCIL HEARING DATE: May 15, 2007

PROJECT SUMMARY:

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

STAFF RECOMMENDATION:

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

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

EXHIBIT A

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

STAFF FINDINGS OF FACT:

A. PROJECT SUMMARY:

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

B. APPLICATION SUBMITTAL:

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

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

D. HISTORY OF PREVIOUS ACTIONS: None

E. COMPANION APPLICATIONS: All applications are inclusive herein.

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

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

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

H. SITE DATA:

Total Acreage of Site – 190.52

Total Number of Lots – 426

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

Total Number of Units - 381

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

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

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

I. GENERAL SITE DESIGN FEATURES:

Greenbelt Areas and Landscape Screening:

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

Open Space:

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

Storm Drainage and Flood Control:

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

Utility and Drainage Easements, and Underground Utilities:

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

Fire Hydrants and Water Mains:

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

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

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

J. STREET DESIGN:

Private or Public Streets:

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

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

Blocks Less Than 500': None

Cul-de-sac Design:

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

Sidewalks:

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

Curbs and Gutters:

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

Lighting:

Lighting for the proposed streets is required.

Street Names:

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

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

Pedestrian Walkways: (See comments under sidewalks above.)

Bike Paths:

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

L. PUBLIC USES PROPOSED: None proposed

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

N. SPECIAL ON-SITE FEATURES:

Areas of Critical Environmental Concern - none
Evidence of Erosion - no
Fish Habitat - no
Floodplain - no
Mature Trees - yes - adjacent to existing residences
Riparian Vegetation - no
Steep Slopes - no
Stream/Creek: - yes - irrigation and drainage ditches
Unique Animal Life - unknown
Unique Plant Life - unknown
Unstable Soils - unknown
Wildlife Habitat - unknown

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

P. AGENCY RESPONSES:

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

Q. LETTERS FROM THE PUBLIC: None received to date

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

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

STAFF ANALYSIS:

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

Chapter 6 – Land Use

6.3 Land Use Designations

Residential Two

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

6.5 Goal

To preserve the rural transitional identity.

6.6 Objectives

a. To encourage the preservation of open spaces.

Chapter 9 – Parks, Recreation and Open Spaces

9.6 Open Space

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

9.6.1 Goal

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

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

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

Chapter 1 – Introduction

1.4 Relationship to Ada County Planning

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

Chapter 2 – Community Design

2.5 Implementation Strategies

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

Chapter 4 – Public Facilities and Services

4.1 Background

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

4.6.3 Implementation Strategies

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

4.10.2 Chevron Pipeline

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

Chapter 6 – Land Use

6.3 Objective

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

6.4 Implementation Strategies

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

Appendix 1 – Glossary

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

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

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

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

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

J. Buffer Areas/Common Lots:

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

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

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

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

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

- Eagle City Code Section 8-8-3 Applicable Plans Policies and Ordinances:
 - A. The Eagle comprehensive plan, as adopted and amended by the city on September 14, 2004, by resolution 04-15, shall apply within the Eagle area of city impact, adopted on June 22, 2004, by ordinance 475 and as may be amended from time to time. Subsequent amendments to the aforesaid Eagle comprehensive plan shall apply within the Eagle area of city impact if the city and the county so agree.
 - C. Applications for subdivision development in the Eagle area of City impact shall be evaluated for conformance to the design and improvement standards contained in the Eagle City Code, Title 9, Chapter 3, and in Chapter 4, Sections 9-4-1 through 9-4-1-12.

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

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

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

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

- 9-3-2 Streets and Alleys:

- 9-3-2-1 Location:

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

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

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

- 9-3-5 Lots:

- Lots shall conform to the following standards:

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

- 9-3-6 Easements:

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

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

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

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

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

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

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

B. Location:

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

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

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

1. Homeowners' Association:

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

9-4-1-7: Bicycle Pathways:

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

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

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

C. Pressurized Irrigation Facilities:

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

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

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

D. DISCUSSION:

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

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

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

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

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

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

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

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

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

STAFF RECOMMENDATION:

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

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

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

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

Submitted by:

Michael Williams, PCED
Planner II

April 27, 2007
Date



Mayor: Nancy C. Merrill

CITY OF EAGLE

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

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

May 9, 2007

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

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

Dear Ms. Toombs:

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

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

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

Sincerely,



Michael Williams, PCED
Planner II

cc: Mayor Merrill
Eagle City Council
file

ORDINANCE NO. 623

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

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

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

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

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

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

2. Amendments to the map are as follows:

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

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

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

ORDINANCE NO. 623 - PAGE 1

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

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

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

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

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

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

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

ADOPTED this 28th day of June, 2006.

Board of Ada County Commissioners

By: _____
Rick Yzaguirre, Chairman

By: _____
Judy M. Peavey-Derr, Commissioner

By: _____
Fred Tilman, Commissioner

ATTEST:

J. David Navarro, Ada County Clerk

PUBLISHED: July 13, 2006

Susan E. Buxton

From: Bill Vaughan [bvaughan@cityofeagle.org]
Sent: Thursday, September 13, 2007 12:43 PM
To: Susan E. Buxton
Subject: Lanewood crops pictures

Attached are the pictures of the crops currently located on the site previously approved by Ada County as Lanewood Estates Subdivision. The pictures were taken by William E. Vaughan, Zoning Administrator for the City of Eagle on September 12, 2007.

*William E. Vaughan, AICP
Zoning Administrator
City of Eagle
ph.: 939-0227
fax: 938-3854*

9/13/2007

**Eagle - 1019.49
Case No. UWI-W-07-02
Exhibit 208**

