



Findings of Fact, Conclusions of Law, and Order
Elordi – DA2022-0003: Development Agreement Modification

Findings of Fact

1. The applicant, Tony Elordi, is requesting a development agreement modification to agreement #16-226, approved as part of Case #PH2016-30. The modification removes the restriction for development to not exceed six (6) residential lots and for lot 5 to be designated agricultural only with no building permits available. The property consists of approximately 42.41 acres, located at 0 Andorra Ln, Caldwell; also known as Parcels R30262104 and R30262104A; a portion of the NW¼ of Section 06 Township 2N and Range 3W & NE¼ of Section 01, Township 2N, Range 04W; Canyon County, Idaho.
2. In 2016, a conditional rezone (PH2016-30) was approved subject to a development agreement (#16-226).
3. A neighborhood meeting was held on May 19, 2022, in accordance with CCZO §07-01-15
 - a. Staff was notified prior to the Planning and Zoning Commissioner hearing that the neighborhood meeting mailing list did not include all owners within a 600ft radius. The Planning and Zoning Commission decided due to the noticing done by DSD and the noticing that will be done prior to the BOCC that a new neighborhood meeting is not necessary at this point.
4. Notice of the public hearing was provided as per CCZO §07-05-01. Affected agencies were notified on October 7, 2022, and December 28, 2022. All property owners within 600 feet of the subject parcel's boundaries were noticed on October 31, 2022, and February 23, 2023. The newspaper notice was completed on October 30, 2022, and March 3, 2023. The subject property was posted with a notice on November 3, 2022, and March 8, 2023.
5. The record consists of exhibits provided as part of the public hearing staff report, testimony, and any additional evidence submitted during the public hearing on November 17, 2022, April 13, 2023, and all information contained in Case File DA2022-0003.

Conclusions of Law

Pursuant to CCZO §07-06-07(7)F, Modification of Development Agreements: "A development agreement by a developer concerning the use or development of the subject parcel may be modified only by permission of the Board after complying with the notice and hearing provisions of Idaho Code §67-6509. The modification proposal must be in the form of a revised development agreement and must be accompanied by a statement demonstrating the necessity for the requested modification."

For this request, the Board of County Commissioners finds and concludes the following:

- 1) The requested modification is not in substantial compliance with the Findings of Fact, Conclusions of Law and Order (FCOs) approved for Case No. PH2016-30.
 - a. The approved FCOs regarding PH2016-30 approved the conditional rezone with a development agreement subject to 46.87 acres remaining in agricultural use with no building permit available (Finding #3 & #4PH2016-30). Therefore, the requested modification is a significant change to the PH2016-30 FCOs.
- 2) The applicants' need for necessity could not be found.
 - The request was found to not be a necessity. The applicant requests a modification to the development agreement to allow building permits and platting of a lot approved to remain agricultural use (Lot 5, Andorra Estates). The necessity stated by the applicant is to provide the owner and family with a place to live and a way to maintain the agricultural property. It was shown that the applicant was the original applicant for Case #PH2016-30 and understood the subject agricultural property could not be further developed. The applicant currently lives on Lot 2 of Andorra Estates; therefore, the development of the agricultural property is a desire, not a necessity.

- 3) Notification was completed in compliance with Idaho State Law §67-6509. Affected agencies were notified on October 07, 2022, and December 28, 2022. All property owners within 600 feet of the subject parcel's boundaries were noticed on October 31, 2022, and February 23, 2023. The newspaper notice was completed on October 30, 2022, and March 3, 2023. The subject property was posted with a notice on November 03, 2022, and March 8, 2023.
- Agency comments were received from Canyon Soil Conservation: "DA2022-0003 Tony Elordi- 24% of the soils are Class Three (3). Class Three (3) have moderate limitations and appropriate management practices can make any irrigated soil productive. 20% of the soils are Class Four (4) and 56% of the soils have no classification."

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **Denies** Case #DA2022-0003, a modification of a development agreement (#16-662) approved as part of Case No. PH2016-30 regarding Parcels R30262104 and R302622104A.

DENIED this 13 day of April, 2022

- Motion Carried Unanimously
- Motion Carried/Split Vote Below
- Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	✓	_____	_____
<u>unavailable for signature</u> _____ Commissioner Brad Holton	_____	_____	_____
 _____ Commissioner Zach Brooks	x	_____	_____

Attest: Chris Yamamoto, Clerk

By: 
 Deputy

Date: 4-13-23