



**PLANNING AND ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

In the matter of the application of:

**Kelley – CR2022-0033**

The Canyon County Planning and Zoning Commission considers the following:

1. Conditional rezone of parcel R38194010A from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone – Single Family Residential).
  - a. The request includes a development agreement limiting development to three (3) buildable lots.  
[Case CR2022-0033, 24720 Harvey Road, Caldwell, portion of the NW¼ of Section 35, T5N, R3W, B-M Canyon County, Idaho]

**Summary of the Record**

1. The record is comprised of the following:
  - A. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2022-0033.

**Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-06-01 (Initiation of Proceedings), Canyon County Code §07-06-07 (Conditional Rezones), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and Canyon County Code §09-09-15 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote the public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See* CCZO §07-06-07(1).
  - c. All conditional rezones for land use shall commence within two (2) years of the approval of the board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. *See* CCZO §07-05-01
2. The commission has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use, including subdivision permits. *See* I.C. §67-6504, §67-6511.
3. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-06-05.
4. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and

statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

**The application, CR2022-0033, was presented at a public hearing before the Canyon County Planning and Zoning Commission on February 1, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Planning and Zoning Commission decides as follows:**

**CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)**

**1. Is the proposed conditional rezone generally consistent with the comprehensive plan?**

**Conclusion:** As conditioned by the development agreement, the conditional rezone is generally consistent with the 2020 Comprehensive Plan.

**Findings:** (1) The application was submitted at the time the 2020 Canyon County Comprehensive Plan was in effect. The future land use plan designation is residential (Exhibit 3c, Staff Report). The 2030 Comprehensive Plan also designates the parcel as 'residential' (Exhibit 3d, Staff Report).

(2) The request generally aligns with the following goals and policies of the 2020 Canyon County Comprehensive Plan.

- Private Property Rights Policy 1: *"No person shall be deprived of private property without due process of law."*
  - o The conditional rezoning application was submitted on November 29, 2022. The application requires public hearings shall comply with Idaho Code Section 69-6511 & 69-6511A and CCZO Chapter 7, Articles 5 and 6.
- Population Policy 2: *"Encourage future high-density development to locate within incorporated cities and/or areas of city impact."*
  - o The request is located within the Middleton Area of City Impact (Exhibit 3d, Staff Report).
- Population Policy 3: *"Encourage future population to locate in areas that are conducive for residential living and that do not pose an incompatible land use to other land uses."*
  - o See the findings for Criteria 2, 3 & 4 for evidence.
- Land Use Policy 2: *"Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate."*
  - o The request will allow the development of a three-lot subdivision conditioned by a development agreement (Attachment A). See Criteria 2, 3 & 4 for evidence.
- Land Use – Residential Policy 2: *"Encourage residential development in areas where agricultural uses are not viable."*
  - o See the findings for Criteria 2 for evidence.
- Natural Resources – Agricultural Land Policy 2: *"Development should not be allowed to disrupt or destroy irrigation canals, ditches, laterals and associated rights-of-way. This does not apply to privately owned, self-contained systems."*
  - o See Attachment A for conditions of the development agreement and the findings for Criteria 4 & 5 for evidence.
- Natural Resources – Agricultural Land Policy 3: *"Protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development."*
  - o See the findings for Criteria 2, 3 & 4 for evidence.
- Hazardous Areas – Goal 1: *"To ensure the safety of residents and the protection of property."*

- The request is not located in a floodplain, hillside, or unstable or hazardous location (Exhibit 3, Staff Report).
- Public Services, Facilities and Utilities Policy 2: “Encourage the establishment of expanded sewer infrastructure and wastewater treatment in areas of city impact.”
  - See findings and evidence in the section titled Canyon County Code §09-09-15 - MIDDLETON AREA OF CITY IMPACT AGREEMENT ORDINANCE.
- Public Services, Facilities and Utilities Policy 3: “Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”
  - The request is located within the jurisdiction of Middleton Rural Fire District.
- Transportation Policy 20: “Work with highway districts, ITD, cities and others to reserve rights-of-way for planned transportation facilities.”
  - See the findings in Criteria 6 for evidence.
- Special Areas, Sites and Recreation Goal 1: “To encourage the preservation of recreational, historical, archeological and architectural landmark areas of the county for the beneficial use of future generations.”
  - The request is not located near a special area, historic site, or recreational area.
- Housing Policy 1: “Encourage a variety of housing choices that meet the needs of families, various age groups and incomes.”
  - The request will allow the 4.12-acre parcel to be divided into a total of three lots for residential development (Attachment A).
- Housing Policy 2: “Limit housing in areas that are hazardous whenever possible. Such constraints or hazards include but are not limited to, the following: - Flood Hazards, - Unstable soil and/or geologic, - Contaminated groundwater.”
  - The request is not located in a floodplain, hillside, or unstable or hazardous location (Exhibit 3, Staff Report).
- Agriculture Policy 3: “Protect agricultural operations and facilities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.”
  - See the findings in Criteria 2, 3 & 4 for evidence.
- Agriculture Policy 4: “Development shall not be allowed to disrupt or destroy irrigation canals, ditches, laterals, drains and associated irrigation works and rights-of-way.”
  - See Attachment A for conditions of the development agreement.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?**

**Conclusion:** Based on the location of the parcel near other similar subdivisions and zones, the request to “CR-R-1” is more appropriate.

**Findings:**

- (1) The parcel is zoned “A” (Agricultural; Exhibit 3f, Staff Report). The future land use plan designation within the Canyon County Comprehensive Plan is residential (Exhibit 3c & 3d, Staff Report). The property is located in the Middleton Area of City Impact where they designated the future land use as residential (Exhibit 3e, Staff Report).
- (2) The parcel consists of Class III, moderately-suited soils, and is considered prime farmland (Exhibit 3i, Staff Report). The parcel is surrounded immediately by residential parcels to the north, Drake Subdivision to the south, Eagles Nest Estates Subdivision and rural sized parcels to the west, and a future subdivision, Green Hills Landing Subdivision, to the east. The parcel is less than five acres and does not have a bona fide agricultural operation; and therefore, it

does not qualify for an agricultural tax exemption (Idaho Code 63-604). Canyon Soils Conservation District has no comment or concern regarding the request (Exhibit 4d, Staff Report).

- (3) There are no productive agricultural uses near the parcel. Productive agricultural uses are predominant north of Purple Sage Road (Exhibit 3a, Staff Report). The property is not located near any gravel pits but is within one mile of three feedlots and over one mile from two dairies (Exhibit 3j, Staff Report). The nearest feedlot, Rising Star Cattle, is located north of Purple Sage Road approximately 1,400 feet northeast of the subject parcel
- (4) *See additional evidence in the findings for Criteria 3 & 4.*
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

### 3. Is the proposed conditional rezone compatible with surrounding land uses?

**Conclusion:** The request is compatible with existing uses found in the area.

- Findings:**
- (1) The north boundary of the parcel abuts three parcels, R38194010, R38194010B, and R38194010C, that were created via conditional rezone in 2022 (CR2022-0026) and divided into three parcels in 2023 (AD2023-0034). The south boundary line abuts parcels created by Drake Subdivision in 1973 with 41 lots with a 0.98-acre average lot size (Exhibit 3h, Staff Report). The east boundary abuts a large 57.4-acre agricultural parcel conditionally rezoned to "CR-R-1" in 2018 (RZ2018-0021). The preliminary plat for Green Hills Landing Subdivision was approved in 2020 with 40 lots and a 1.44-acre average lot size (SD2018-0019). The west boundary abuts Harvey Road, a public road. East of Harvey Road are residential parcels and subdivisions, Eagles Nest Estates, approved in 1998 with 11 lots and a 3.24-acre average lot size.
  - (2) Per Exhibit 3g of the Staff Report, approximately 1,300 feet west of the subject parcel is a large parcel rezoned "CR-R-1" (CR2019-0008), and subsequently Spring Hills Ranch Subdivision was approved in 2022 with 28 lots with a 1.36-acre average lot size (SD2021-0044). Approximately 2,000 feet east and 750 feet southeast are two large parcels rezoned to "R-R" (Rural Residential) in 2007 (RZ2006-10). A 40-acre portion approximately 2,000 feet east received preliminary plat approval for 18 lots with a 2.15-acre average lot size (Ridgeland Estates Subdivision, SD2020-0036).
  - (3) Within a one-mile radius, there are 36 subdivisions with an average lot size of 1.62 acres and four approved preliminary plats with a 1.68-acre average lot size (Exhibit 3h, Staff Report).
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

### 4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?

**Conclusion:** The request will not negatively impact the character of the area.

- Findings:**
- (1) The request will be similar to the recent development immediately north of the subject parcel. The north boundary of the parcel abuts three parcels, R38194010, R38194010B, and R38194010C, that were created via conditional rezone in 2022 (CR2022-0026) and divided into three parcels in 2023. The subject parcel currently has a dwelling. The request allowed two more dwellings on a total of three residential lots. The division to create those lots requires platting. The development agreement (Attachment A) restricts the rezone to only three lots.
  - (2) The development agreement (Attachment A) includes conditions regarding no secondary dwellings, private road access, and irrigation to ensure the development reduces potential impacts to the area to a level less than significant. *See the findings for Criteria 5-8 and City Impact Agreement findings for evidence.*

- (3) Notice of the public hearing was provided per CCZO §07-05-01. Property owners within 600' of the subject parcel were notified on December 20, 2023. A newspaper notice was published on December 22, 2023. A notice was posted on the property on December 29, 2023.
  - a. No comments from the public were received.
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**5. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate proposed conditional rezone?**

**Conclusion:** Subject to conditions of the development agreement (Attachment A), the proposal can ensure adequate facilities can be provided before signing of the final plat.

- Findings:**
- (1) The parcel is currently served by a septic and well (Exhibit 2a, Staff Report). Future lots will be served by individual wells and septic. The parcel is located within a nitrate priority area (Exhibit 3l). A Nitrogen Pathogen (NP) Study will be required by Southwest District Health at the time of platting. No comments were received from Southwest District Health.
  - (2) Powerline bisects the property that can serve the request (Exhibit 5). The plat requires utility easements and easements where existing utilities exist and cannot be moved (CCZO Section 07-17-09(1)D&E). No comments were received from ID Power or Intermountain Gas.
  - (3) The property is currently served by an irrigation well with rights to one inch per acre a year (Exhibit 2c, Staff Report). The well appears to be located on parcel R38194010A, outside of the subdivision, which crossed the CE10.2-5.1 Lateral to serve the request (Exhibit 2b, Staff Report).
  - (4) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
    - a. Black Canyon Irrigation District (BCID) identifies concerns regarding the irrigation serving the request (Exhibit 4e, Staff Report). BCID finds the property has surface water rights via Drake Subdivision. BCID requests the applicant to work with Drake Subdivision HOA to address the issue.
      - i. Per ID CODE 67-6537(1) *“The intent of this section is to encourage the use of surface water for irrigation. All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation. Surface water shall be deemed reasonably available if:*
        - (a) *A surface water right is, or reasonably can be made, appurtenant to the land;*
        - (b) *The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity’s distribution system is capable of delivering the water to the land; or*
        - (c) *An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.”*
      - b. The groundwater well to be used for irrigation crosses the lateral and is located within the district easements. The applicant requires a license/crossing agreement approval from BCID. BCID recommends their concerns be conditions of the development agreement so they are addressed during platting.

As a condition of the development agreement (Attachment A), the plat shall demonstrate compliance with Idaho Code 67-6537(1) and the comments letter from Black Canyon Irrigation District prior to approval of the preliminary plat.

- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?

**Conclusion:** The request, as conditioned, is not anticipated to impact existing or future traffic on Harvey Road.

- Findings:**
- (1) The parcel has access to Harvey Road, a public road. The request allowed three lots to be developed for residential use (including the existing dwelling on the parcel) which creates 28.56 average daily trips (ADT) per CCZO Section 07-10-03(3)A1.3. As conditioned, Secondary dwellings per CCZO Sections 07-10-27 and 07-14-25 are prohibited which reduces trips generated on the private road and Harvey Road and are similar conditions placed on the development north of the subject parcel (Attachment A).
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
    - a. Highway District #4 (HD4) finds the request does not trigger a traffic impact study (Exhibit 4c, Staff Report). HD4 will require public right-of-way dedication and payment of impact fees as traffic impact mitigation measures.
    - b. Idaho Transportation Department (ITD) finds any impacts based on the request to be minimal (Exhibit 4b, Staff Report).
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

7. Does legal access to the subject property for the conditional rezone exist or will it exist at time of development?

**Conclusion:** The property has legal access. Future development will require private road improvements.

- Findings:**
- (1) The property has legal access from Harvey Road via a 25' open public right-of-way. The request will be required to meet private road requirements and construction standards (CCZO Section 07-10-03 and 07-17-31).
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
    - a. Highway District #4 (HD4) finds no access issues. The request does not trigger a traffic impact study (Exhibit 4c, Staff Report). HD4 will require public right-of-way dedication and payment of impact fees as traffic impact mitigation measures.
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?

**Conclusion:** As conditioned by the development agreement, the request is not anticipated to impact essential services.

- Findings:**
- (1) As conditioned by the development agreement (Attachment A), the request is not anticipated to impact essential services. The property has an existing dwelling served by Middleton Fire District (Exhibit 2a, Staff Report), Middleton School District, Canyon County Sheriff's Department, and Canyon County Paramedics/EMT (Exhibit 6, Staff report) As conditioned, an additional two lots are not anticipated to impact essential services. No comments were received from the above-stated agencies. The fire district approval provided by the applicant is for the existing dwelling on the property, not the request (Exhibit 2a and 6, Staff Report).

- (2) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**Canyon County Code §09-09-15 - MIDDLETON AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Middleton Area of City Impact. A notice was sent to the City of Middleton per Canyon County Code Section 09-09-15. The development agreement (Attachment A) includes a condition requested by the City of Middleton for an easement to ensure future city services are not blocked.

**Findings:**

- (1) The subject property is located in the Middleton Area of City Impact (Exhibit 3e, Staff Report). The Middleton Area of City Impact Ordinance was adopted in 2001 (Ord No. 05-013). Section 09-09-03(2) of the Ordinance states: *"The purpose of these provisions is to promote the public health, safety, general welfare, peace, good order, comfort and convenience of the county and the inhabitants thereof by establishing regulations for the Middleton area of city impact."*
  - a. Middleton's Comprehensive Plan designated the parcel as "residential" on the future land use map (Exhibit 3e, Staff Report).
- (2) Section 09-09-15 of the Ordinance states: *"All proposed county ordinance amendments to the text and/or map which may relate to the Middleton area of city impact shall be referred to the city in the same manner as provided for in subsection ~~09-09-11(3) of this article~~, except that recommendations received from the city by the county are nonbinding but any factually supported recommendations shall be seriously considered by the county."* Pursuant to Section 09-09-11(3) of the Ordinance, notice shall be provided to the City of Middleton at least 30 days prior to the first public hearing. An official notice was provided on October 2, 2023. A hearing notice was provided on December 20, 2023.
  - a. The City of Middleton did not submit a comment to County staff. However, the applicant provided an e-mail between the city and the property owner (Exhibit 4a, Staff Report). The city requires a pre-annexation agreement and utility easement for future city services to be located within when services reach the area.
  - b. Per CCZO Section 09-09-11(3): *"If a recommendation is received it shall be given great weight by the county, provided it is factually supported, but such recommendation shall not be binding on the county. If no response is received the county may proceed without the recommendation of the city."*
  - c. As a condition of the development agreement (Attachment A), a utility easement shall be provided for future city services along the frontage of the property. However, the condition does not include the requested pre-annexation agreement. The city is not providing services to the development; and therefore, there is not a nexus to require a pre-annexation agreement.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approval** of Case # CR2022-0033, a conditional rezone of parcel R38194010A from an "A" Zone to a "CR-R-1" zone, subject to conditions of the development agreement (Attachment A).

DATED this 1 day of February, 2024.

**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

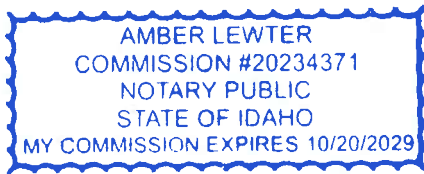
  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this 1 day of February, in the year 2024, before me Amber Lewter, a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.



Notary: Amber Lewter

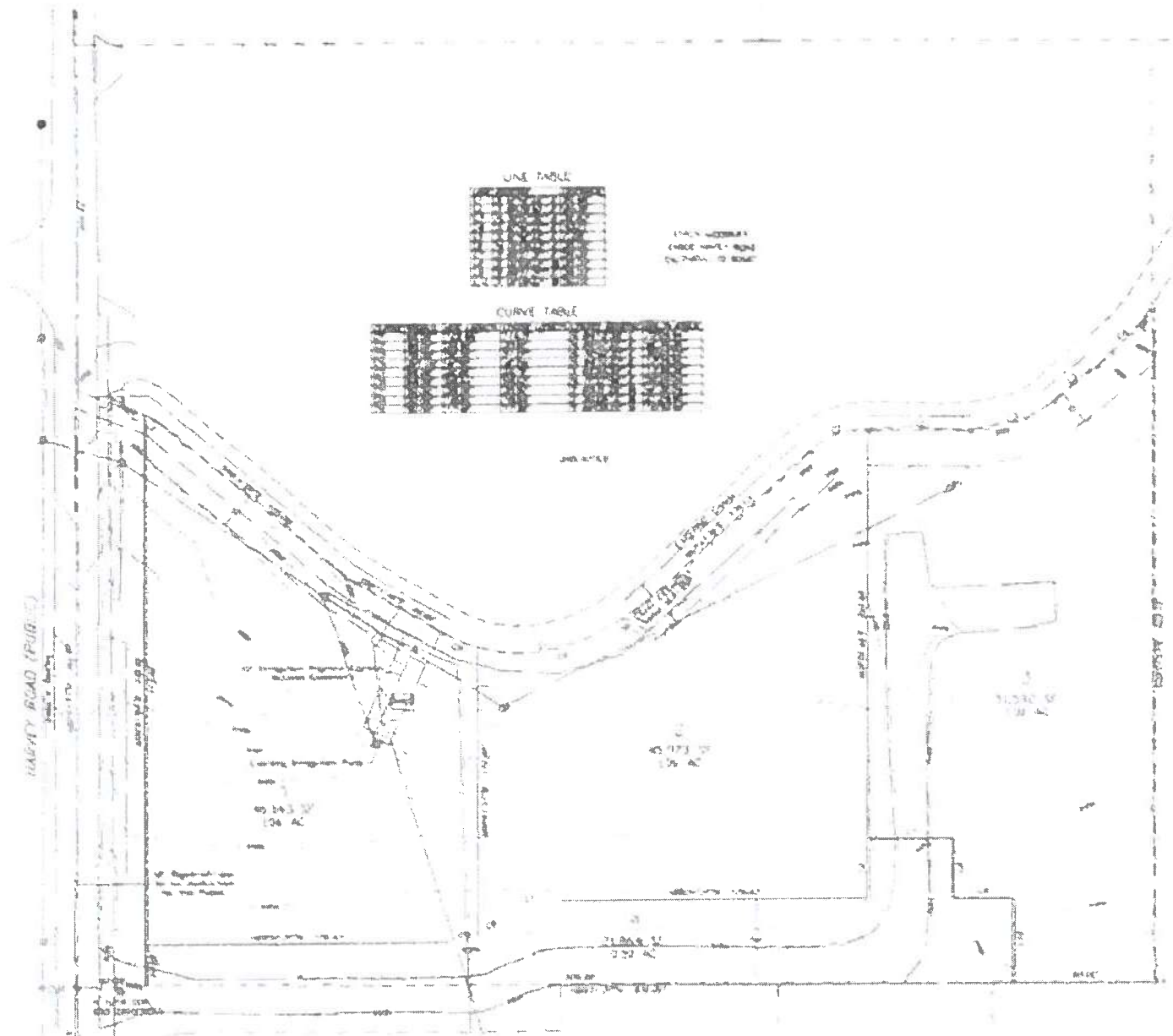
My Commission Expires: 10/20/2029



**ATTACHMENT A**  
**DRAFT CONDITIONS OF APPROVAL**

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
  - a. Prior to the Board of County Commissioners signing of the final plat, the private road shall comply with CCZO Section 07-17-29 & 31.
  - b. Prior to the Board of County Commissioners signing of the final plat, Highway District #4 and Southwest District Health signatures must be on the final plat.
2. The subject parcel, 4.15 acres, shall be divided in compliance with County Subdivision requirements (Chapter 7, Article 17, Canyon County Zoning Ordinance, in substantial compliance with the conceptual site plan (Attachment B) subject to the following restrictions:
  - a. Secondary dwellings (CCZO §07-10-27 & 07-14-25) are prohibited.
  - b. Further division of the parcels is prohibited unless the development agreement is modified or approval of a zoning map amendment.
  - c. A utility easement along Harvey Road shall be included to ensure the development does not impede the city's ability to extend city services to the area in the future. The applicant shall work with the City of Middleton to ensure the utility easement width is adequate.
  - d. Pressurized irrigation shall be provided. Use of water rights shall comply with Idaho Code Section 67-6537(1).
    - i. The applicant must comply with all standards and regulations outlined in the Black Canyon Irrigation District Letter (Exhibit 4e, Staff Report).
    - ii. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected. Modifications or improvements shall be approved in writing by the local Irrigation District.
3. The developer shall comply with CCZO §07-06-07 (4) Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."

**ATTACHMENT B  
CONCEPTUAL SITE PLAN**





CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, February 1, 2024  
6:30 P.M.

---

1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman  
Brian Sheets, Commissioner  
Miguel Villafana, Commissioner  
Patrick Williamson, Commissioner  
Harold Nevill, Commissioner  
Geoff Mathews, Commissioner  
Matt Dorsey, Commissioner

Staff Members Present: Jay Gibbons, Assistant Director of Development Services  
Carl Anderson, Planning Supervisor  
Dan Lister, Principal Planner  
Amber Lewter, Hearing Specialist

**Chairman Sturgill** called the meeting to order at 6:31 p.m.

**Commissioner Villafana** read the testimony guidelines and proceeded to the first business item on the agenda.

**Item 1A:**

**Case No. CU2023-0002-APL – Jimenez** – Approval of revised FCO's.

**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

**Item 2A:**

**Case No. CR2022-0033 – Kelley:** The applicants, Shawn & Rae Lynn Kelley, are requesting a conditional rezone of parcel R38194010A from an "A" (Agricultural) zone to a "CR-R-1" (Conditional Rezone – Single Family Residential). The request includes a development agreement limiting development to three (3) buildable lots. The 4.12-acre parcel is located at 24720 Harvey Road, Caldwell, also referenced as a portion of the NW¼ of Section 35, T5N, R3W, B-M Canyon County, Idaho.

**Planner Dan Lister** reviewed the Staff report for the record.

Commissioner Williamson asked how far City services are from the subject property. Planner Dan Lister advised they are over a mile away. Commissioner Williamson asked if the ditch is an open lateral. Planner Dan Lister confirmed that is correct. Commissioner Williamson confirmed all the lots are will take access from the existing private lane.

Commissioner Nevill asked why there isn't a road user's agreement if the road is a private lane. Planner Dan Lister explained it is only servicing one house at this time and there is a condition that a road users' agreement will be established before final plat.

Commissioner Sheets asked if there is an existing utility easement on Harvey Rd. Planner Dan Lister stated

he didn't see an existing easement.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Shawn Kelley (Representative) – IN FAVOR – 24720 Harvey Rd, Caldwell, ID 83607**

Mr. Kelley stated the reason for the road location is because that is what Highway District 4 required. Mr. Kelley addressed the reason why Black Canyon Irrigation could not find the irrigation rights is because it was tied into Drakes Subdivisions irrigation pump, Black Canyon Irrigation will split the 3 lots off and there will be annual fees off of the irrigation pump.

Commissioner Williamson asked if there will be a water users' agreement. Mr. Kelley stated according to Black Canyon Irrigation the three lots will go into the irrigation rotation and pay an annual fee. Commissioner Williamson asked if Mr. Kelley plans on keeping the extra surface water rights or giving them back to the ditch company. Mr. Kelley stated that Black Canyon Irrigation said he gets 1 inch per year and whatever isn't used stays in the canal and goes down, he isn't sure what is done with it after that.

Commissioner Nevill confirmed with Mr. Kelley that he is in agreeance with the conditions of approval.

Commissioner Villafana asked if the perimeter of the subdivision will be fenced. Mr. Kelley stated he doesn't have any plans to do so at this time.

Commissioner Williamson referenced exhibit 4E page 2, the letter from Black Canyon Irrigation stating that fencing will be required along the lateral and then they later stated that fencing is recommended. Mr. Kelley advised he is going to leave fencing up to the property owners.

**MOTION:** Commissioner Williamson moved to close public testimony on Case CR2022-0033, seconded by Commissioner Villafana, voice vote, motion carried.

**DELIBERATION:**

**MOTION:** Commissioner Williamson moved to approve Case CR2022-0033 based on the Findings of Fact and Conclusions of Law and conditions of approval and forward the recommendation to the Board of County Commissioners. Seconded by Commissioner Mathews.

**Discussion on the Motion:**

Commissioner Dorsey asked for clarification on the irrigation users' agreement as well as the fencing requirement along the lateral. Planner Dan Lister stated the conditions state if you have the water rights you need to use them or prove at the time of plat why you can't use them. The letter from Black Canyon Irrigation shows they are working on that part. At the plat stage other conditions can be made. Planner Dan Lister explained Black Canyon used to require fencing but there was a change in policy, and now they recommend fencing.

Roll call vote: 7 in favor, 0 opposed, motion passed.

**Item 2B:**

**Case No. SD2022-0057 – Kimber Ridge Subdivision #3:** The applicant, Jerry Uptmor, is requesting a

short plat, Kimber Ridge Subdivision #3, a two-lot subdivision. The 4.05-acre lot is zoned "R-R" (Rural Residential). The subject property is Lot 14, Block 1 of Kimber Ridge Subdivision #2, also referenced as Parcel R37886213, a portion of the NE¼ of Section 18, T5N, R3W, BM, Canyon County, Idaho.

**Planner Dan Lister** viewed the Staff report for the record.

Commissioner Sheets asked how long after the Final Plat was approved on June 1, 2022 did this application come in. Planner Dan Lister advised the application was submitted December 8, 2022.

Chairman Sturgill stated he requested the past minutes from when the original plat was approved.

**MOTION:** Commissioner Nevill moved to accept late exhibits 8a, 8b, and 8c for the past hearing minutes. Seconded by Commissioner Sheets. Voice vote, motion carried.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Jerry Uptmor (Representative) – IN FAVOR – 27751 Gray Sage Rd, Caldwell, ID, 83607**

Mr. Uptmor agreed with Staff's report and stood for questions.

Commissioner Nevill confirmed with Mr. Uptmor that he agrees with the conditions. Commissioner Nevill asked for Mr. Uptmor's thoughts on the fencing recommendation from Black Canyon Irrigation District. Mr. Uptmor stated if he gets the split he will be putting fencing on his lateral and will leave the option for the property owner on the split. Commissioner Nevill asked Mr. Uptmor's thoughts on the road user's maintenance agreement for the shared access. Mr. Uptmor stated he already put a driveway in and made it extra wide in anticipation of the split. Commissioner Nevill asked if the property is on a hill. Mr. Uptmor stated it is a slight hill to get to the top, basically a null.

Planner Dan Lister advised that hillside development is part of the platting process and it was already determined that the subject property doesn't slope over 15%.

Commissioner Sheets asked if there is an HOA. Mr. Uptmor stated there are CCNR's but there isn't an HOA. Commissioner Sheets asked if the plans conformed with the CC&R's. Mr. Uptmor confirmed that it does.

Commissioner Williamson asked why Mr. Uptmor wants to split the 4-acre lot. Mr. Uptmor stated that is the reason he bought the 4-acre lot instead of the other lots. He was originally looking at a smaller lot and the developer Dennis Jones convinced him to buy the 4-acres because it is zoned rural residential for a minimum of two acres. This appealed to Mr. Uptmor to help with some of the cost. Commissioner Williamson asked if it was the developer that suggested buying the 4-acres and then doing a split. Mr. Uptmor stated that is correct and that the developer has an additional 4-acre lot that he is doing the same thing with.

Commissioner Dorsey asked if the property has surface water rights. Mr. Uptmor stated it does not. Commissioner Dorsey asked what Mr. Uptmor's plan is for irrigation water rights or if he would be comfortable with additional conditions. Mr. Uptmor stated he would be comfortable with Planning and Zoning giving recommendations.

Commissioner Mathews stated he could purchase additional water rights through the Department of Water Resources.

**Diana Hoffman – IN OPPOSITION – 27990 Gray Sage Rd, Caldwell, ID, 83607**

Ms. Hoffman stated that traffic and speeding has increased from construction workers and the influx of residents. Notus Parma Highway District has posted a 20 mph sign and it continues to get ignored. Ms. Hoffman has put signs up asking to slow down, those get ignored. Ms. Hoffman believes having an additional well in the area will negatively impact the resource of water. Ms. Hoffman stated the switchback is a steep hill and is concerned for the Fire Department and EMT's needing to go to the property.

Commissioner Nevill asked if any of the concerns are with Mr. Uptmor or just the developer. Ms. Hoffman stated adding an additional home would contribute with the concerns she already has.

**Marina Peters – IN OPPOSITION – 17134 Big Sage Ct, Caldwell, ID, 83607**

Ms. Peters stated she is opposed to the subdivision for many reasons. When the land was sold prior to 2016 the potential buyers in Silver Sage Subdivision were told the subdivisions would not be connected, when the land was rezoned from ag to rural residential they were told it was one homeowner with a couple homes for his children. Then it turned into 14 homes. Now the once dead-end road has Kimber Ridge residents speeding down the road. Ms. Peters stated the schools are over capacity. Ms. Peters stated it takes the Fire Department about 30 minutes to get to the area and there were 5 fires last year.

Commissioner Williamson asked if the fires are in her subdivision or the Kimber Ridge Subdivision. Ms. Peters stated there was one in Kimber Ridge which was a brush fire.

Commissioner Nevill asked for clarification on the schools being over capacity. Ms. Peters stated she has two kids in Mill Creek and she believes they are over capacity 130%. Commissioner Nevill asked where the other four fires were. Ms. Peters stated two fires were off of Sand Hollow and the other one or two were in Butterfly Ridge. Commissioner Nevill asked how the fires occurred. Ms. Peters stated the one in Kimber Ridge was a brush fire during construction, the one on Butterfly Ridge was brush fire, one in Sand Hollow was a brush fire, and the last one was a home fire.

**Jeffy Uptmor – REBUTTAL – 27751 Gray Sage Rd, Caldwell, ID, 83607**

Mr. Uptmor stated the brush fire in Kimber Ridge was the well drillers who were drilling a well took the blow torch to clear out some tall grass and the wind caused the fire. The fire department came out and put it out. Mr. Uptmor stated the grade going up to the house is less than 15%. He put a large pad near his shop for the Fire Department to be able to turn around and it meets the Fire Departments requirements. Mr. Uptmor stated there isn't going to be a bunch of splits because with rural residential they have to be 2 acres. There are only three 4-acre lots in the subdivision, his, one that won't be split and one other. Mr. Uptmor stated the signs for traffic to slow down work. He sees people speeding and then slow down on that road.

Commissioner Williamson asked with the five fires in a year make Mr. Uptmor consider other fire suppression measures. Mr. Uptmor stated it doesn't because there is so much space between each lot and the lot he has is three quarters surrounded by the irrigation ditch.

Planner Dan Lister reminded the Commission that this isn't a rezone request, it is a subdivision plat. The area is zoned rural residential. The lot has been approved by the Fire District.

Commissioner Nevill asked what they are able to consider and if they can consider 2-acre lots are smaller than the lots around. Planner Dan Lister advised they cannot because the area is zoned rural residential which allows 2-acre lots. The split will not have impact on any essential services because that was already determined at the re-zone. The findings for this case are if the split meets the minimum requirement and if there is any improvement the Commissioners want to recommend. Additional conversation transpired regarding the rezone and short plat.

Chairman Sturgill asked why the case was brought forward as a short plat instead of a modification to the plat Planning and Zoning approved. Planner Dan Lister explained those plats have already been decided upon and the change is to one lot within the plat. Additional conversation occurred in regards to the difference of the plat that was approved and the case before them.

Commissioner Villafana asked if the lot sizes were a concern previously and the average lot sizes are 3.3 acres, the request is 2-acres, when do we stop allowing re-plats. Planner Dan Lister explained it would have to meet the standards for the zone it is in or have to go through the process of rezoning. Commissioner Villafana asked why there wasn't a condition on the rezone for splitting the properties. Planner Dan Lister stated it was a full rezone and not a conditional rezone.

**MOTION:** Commissioner Williamson moved to close public testimony on Case SD2022-0057, seconded by Commissioner Mathews, voice vote, motion carried.

**DELIBERATION:**

Commissioner Dorsey stated he understands the codes and why staff recommended approval but he sits on a Planning and Zoning Commission and in the name is planning, he see's the frustration because by code it is allowed, but he feels this is a loophole.

Commissioner Nevill stated he believes they get to make land use decisions and that includes if smaller lots are appropriate for the zone due to traffic or school impacts, they are able to say no to the application. Chairman Sturgill stated he understands the frustration for the Commissioners but for the interest of driving towards a motion he suggested they review the criteria.

Commissioner Mathews stated his concern is if the original plat said that the lots could be subdivided and the Commission says they can't that is an arbitrary action on Planning and Zoning Commission.

Commissioner Williamson proposed a condition of approval that the applicant would need to reach out to the fire district and see if there needs to be any modifications.

Chairman Sturgill proposed they continue the case and ask for the original developer to come in and provide a revised plat showing all the subdivisions that are contemplated. Planning Supervisor Carl Anderson stated the application meets the zoning ordinance and is permitted under the current code. He suggested the Planning and Zoning Commission entertain the application before them and if there are conditions on the current application however for the previous application has already been approved.

**MOTION:** Commissioner Mathews moved to approve Case CR2022-0033 based on the Findings of Fact and Conclusions of Law and conditions of approval and forward the recommendation of approval to the Board of County Commissioners. Seconded by Commissioner Sheets.

**Discussion on the Motion:**

Commissioner Sheets stated he believes this is a loophole. To have a final plat approved and before the ink is dry an application comes in to start changing it, he believes the code needs to reflect something to that effect that a replat within a certain amount of time will not be considered by this body because they took evidence and made their decision based on a representation that lasted for five months. He doesn't like it but according to the code he doesn't have a reason to deny the case.

Commissioner Villafana agrees with Commissioner Sheets. The issue is the case meets the criteria, another split is allowed, and it is a loophole.

Commissioner Williamson agrees with the other Commissioners.

Roll call vote: 4 in favor, 2 opposed, 1 abstained, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from January 4, 2024 with the approved revisions done via email, seconded by Commissioner Mathews. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Commissioner Nevill believes if they cannot do anything about land use then they shouldn't have to hear the case.

Assistant Director of Development Services Jay Gibbons expressed gratitude for the Commissioners hard work. He understands the frustration in regards to timing for the previous case, the applicant had to go through the process and will continue to go through the process. Assistant Director of Development Services Jay Gibbons advised they are actively reviewing the current codes in regards to several items and amendments have been identified to move forward.

Planner Supervisor Carl Anderson provided future hearings that are scheduled.

Commissioner Dorsey thanked the Chairman for allowing him to abstain his vote in the previous case.

Planner Dan Lister stated staff tries to make the best staff reports so the Commissioners can make their decisions and asked if the Commissioners need more information to let them know.

**ADJOURNMENT:**

**MOTION:** Commissioner Williamson moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 8:33 PM.

An audio recording is on file in the Development Services Departments' office.

Approved this 15th day of February, 2024



Robert Sturgill, Chairman

ATTEST



Amber Lewter – Hearing Specialist





**HEARING DATE:** February 1, 2024

**OWNER:** Shawn & Rae Lynn Kelley

**PLANNER:** Dan Lister, Principal Planner

**CASE NUMBER:** CR2022-0033

**LOCATION:** 24720 Harvey Road, Caldwell  
 Parcel No. R38194010A



**PROJECT DESCRIPTION**

The applicants, Shawn & Rae Lynn Kelley, are requesting a conditional rezone of parcel R38194010A from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone – Single Family Residential). The request includes a development agreement limiting development to three (3) buildable lots. The 4.12-acre parcel is located at 24720 Harvey Road, Caldwell, also referenced as a portion of the NW¼ of Section 35, T5N, R3W, B-M Canyon County, Idaho.

**PROJECT INFORMATION** (See Exhibit 1 for Parcel Information)

The subject parcel, 4.12 acres, was approved via an Administrative Land Division (AD2022-0003, Exhibit 7). A dwelling was built on the property in 2022 (BP2022-0572). The property was purchased by the applicant on April 1, 2022 (Exhibit 2e).

If approved, platting is required. The applicant submitted a preliminary plat, Alpine View Estates (SD2022-0056) which can be considered once CR2022-0033 is approved.

**APPLICABLE CODE**

***CCZO Section 07-02-03 – Definitions***

*CONDITIONAL REZONE: The rezoning of land with conditions imposed so that if the conditions are not complied with, the rezone may be withdrawn and the land reverts back to its former zoning classification.*

***CCZO Section 07-10-21(2) - Minimum Parcel or Lot Size - TABLE 2 - MINIMUM PARCEL OR LOT SIZE***

	<b><i>Minimum Lot Size</i></b>	<b><i>Minimum Lot Width</i></b>
<i>Agricultural Zone A</i>	<i>40 acres or in accordance with the administrative land division requirements of article 18 of this chapter</i>	<i>60'</i>
<i>Residential Zone R-R</i>	<i>Average minimum lot size of 2 acres for a residential lot<sup>3,4</sup></i>	<i>60'</i>

<i>Residential Zone R-1</i>	<i>Average minimum lot size of 1 acre for a residential lot<sup>1,3,4</sup></i>	<i>60'</i>
-----------------------------	---	------------

*Notes:*

- 1. For parcels within the Area of City Impact with central sewer and/or water services, the parcel or lot size may be reduced to 12,000 square feet.*
- 3. Where a property owner dedicates land for public use or right-of-way for roadways where no direct lot access is provided, the total number of lots that can be created on a property through subdivision is calculated by the total parcel size prior to platting divided by the average minimum lot size. The resulting lots, and residential lots created through an administrative land division in subsection [07-18-01\(1\)](#) of this chapter, may reduce the average minimum lot size by no more than 15 percent.*
- 4. The average minimum lot size shall be calculated for the residential lots within each phase of a subdivision.*

**CCZO Section 07-10-25: PURPOSES OF ZONES**

*(1) The purposes of the A (Agricultural) Zone are to:*

- A. Promote the public health, safety, and welfare of the people of the County by encouraging the protection of viable farmland and farming operations;*
- B. Limit urban density development to Areas of City Impact in accordance with the comprehensive plan;*
- C. Protect fish, wildlife, and recreation resources, consistent with the purposes of the "Local Land Use Planning Act", Idaho Code title 67, chapter 65;*
- D. Protect agricultural land uses, and rangeland uses, and wildlife management areas from unreasonable adverse impacts from development; and*
- E. Provide for the development of schools, churches, and other public and quasi-public uses consistent with the comprehensive plan.*

*(2) The purpose of the R-R (Rural Residential) Zone is to encourage and guide growth in areas where a rural lifestyle may be determined to be suitable.*

*(3) The purpose of the R-1 (Single-Family Residential) Zone is to promote and enhance predominantly single-family living areas at a low density standard.*

**CCZO Section 07-06-07: Conditional Rezone**

*(1) Restrictions: In approving a conditional rezone application, the presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions or limitations may be imposed to promote the public health, safety and welfare, or to reduce any potential damage, hazard, nuisance or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. When the presiding party finds that such conditions, stipulations, restrictions or limitations are necessary, land may be rezoned upon condition that if the land is not used as approved, or if an approved use ends, the land use will revert back to the zone applicable to the land immediately prior to the conditional rezone action.*

*(2) Development Agreement: Any condition, stipulation, restriction or limitation imposed pursuant to this article shall be incorporated as part of any site plan, plat, document of title of conveyance and building permit relating to the restricted land. Any predevelopment condition, stipulation, restriction or limitation imposed pursuant to this subsection shall be verified as being met prior to the issuance of any building permit. The applicant must execute a written development agreement*

*to implement and be bound by any such condition, stipulation, restriction, or limitation. No final conditional rezoning action shall be taken until such development agreement is recorded in the office of the county recorder. The development agreement shall have the effect and impact provided by Idaho Code section 67-6511A.*

- (3) Conditional Rezoning Designation: Such restricted land shall be designated by a CR (conditional rezoning) on the official zoning map upon approval of a resolution by the board for an "order of intent to rezone". An "order of intent to rezone" shall be submitted to the board for approval once the specific use has commenced on the property and all required conditions of approval have been met and any required improvements are in place. Land uses that require approval of a subdivision shall have an approved final plat in accordance with this chapter before the "order of intent to rezone" is submitted for approval by the board. Designation of a parcel as CR shall not constitute "spot" zoning and shall not be presumptive proof that the zoning of other property adjacent to or in the vicinity of the conditionally rezoned property should be rezoned the same.*
- (4) Time Requirements: All conditional rezones for a land use shall commence (see definition of "commence", section [07-02-03](#): of this chapter) within two (2) years of the approval of the board. If the conditional rezoning has not commenced within the stated time requirement, the application for a conditional rezoning shall lapse and become void. All subsequent developments on the property shall reapply for land use approval.*
- (5) Notice That Conditional Rezone Conditions Not Being Met: If any person, including staff or member of the commission, files a written notice presenting sufficient evidence, as determined by the director, to establish that the rezoning conditions have not been met, or that a use approved by conditional rezoning has been abandoned or has ended, the commission shall notice a public hearing pursuant to article 5 of this chapter, said hearing to be conducted pursuant to article 5 of this chapter. The burden of proof at such hearing shall be on the person who filed the notice. If the commission finds that the rezoning conditions are not being followed or that the use approved by conditional rezoning has ended, it may recommend to the board a time schedule for compliance or may recommend that the board order the zone to revert back to the zone from which the property was conditionally rezoned, as provided by subsection (7)I of this section.*
- (6) Conditional Rezone Approval:*
  - A. Standards Of Evaluation: The presiding party shall review the particular facts and circumstances of the proposed conditional rezoning. The presiding party shall apply the following standards when evaluating the proposed conditional rezoning:*
    - 1. Is the proposed conditional rezoning generally consistent with the comprehensive plan;*
    - 2. When considering the surrounding land uses, is the proposed conditional rezoning more appropriate than the current zoning designation;*
    - 3. Is the proposed conditional rezoning compatible with surrounding land uses;*
    - 4. Will the proposed conditional rezoning negatively affect the character of the area? What measures will be implemented to mitigate impacts?*
    - 5. Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate proposed conditional rezoning;*
    - 6. Does the proposed conditional rezoning require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?*
    - 7. Does legal access to the subject property for the conditional rezoning exist or will it exist at time of development; and*

8. *Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?*
  - B. *Conditions Must Be Met: If the commission recommends and the board approves such order of preliminary rezoning, the order shall include any conditions, stipulations, restrictions or limitations which the commission recommends and the board finds are necessary to the public health, safety and welfare. Such conditions, stipulations, restrictions or limitations must be met before the "order of intent to rezone" is issued. The development agreement must be signed and recorded before final approval is given.*
  - C. *Conditions Incorporated Into Document: Any conditions, stipulations, restrictions or limitations imposed pursuant to this section shall be incorporated as part of any site plan, plat, document of title of conveyance, and building permit relating to the restricted land.*
- (7) *Provisions Governing The Creation, Form, Recording, Modification, Enforcement And Termination Of A Development Agreement:*
- I. *Termination Of Development Agreements:*
    1. *A development agreement may be terminated and the zoning designation upon which the use is based reversed, upon the failure of the developer to comply with the provisions in the development agreement. The developer shall comply with the requirements set forth in the development agreement. A development agreement may be terminated only after complying with the notice and hearing provisions of Idaho Code section 67-6509.*
    2. *If, as a result of a periodic review, the director finds and determines that the developer has committed a breach of the terms or conditions of the development agreement, the director shall serve notice in writing, within a reasonable time period after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and provide a reasonable time period in which to cure such material breach. If the developer fails to cure the breach within the time period given, the county may terminate or modify the development agreement only after complying with the notice and hearing provisions of Idaho Code section 67-6509 and subsection (5) of this section.*

## **PROJECT OVERVIEW**

Per the applicant's letter of intent and submitted information (Exhibit 2c), the applicant is requesting a conditional rezone to a "CR-R-1" (Conditional Rezone – Single Family Residential) zone to divide the subject parcel, R38194010A into a total of three (3) lots served by a private road. The applicant agrees to a development agreement to restrict the divisions to only create three lots in substantial compliance with the conceptual site plan (Exhibit 2b).

### **Comprehensive Plan**

The application was submitted at the time the 2020 Canyon County Comprehensive Plan was in effect. The future land use plan designation is residential (Exhibit 3c). The current 2030 Canyon County Comprehensive Plan also identifies the future land use designation as residential (exhibit 3d)

The property is located in the Middleton Area of City Impact where they designated the future land use as residential (Exhibit 3e).

### **Immediate Vicinity**

The 4.12-acre parcel is zoned "A" (Agricultural, Exhibit 3f). The average lot size of the area is 2.65 acres (Exhibit 3b). The north boundary of the parcel abuts three parcels, R38194010, R38194010B, and R38194010C, that were created via conditional rezone in 2022 (CR2022-0026) and divided into three parcels in 2023 (AD2023-0034).

The south boundary line abuts parcels created by Drake Subdivision in 1973.

The east boundary abuts a large 57.4-acre agricultural parcel conditionally rezoned to “CR-R-1” in 2018 (RZ2018-0021). The preliminary plat for Green Hills Landing Subdivision was approved in 2020 (SD2018-0019).

The west boundary abuts Harvey Road, a public road. East of Harvey Road are residential parcels and subdivision, Eagle Nest Estates, approved in 1998. The area is zoned “A” (Agricultural).

#### Land Use Decisions (Exhibit 3g)

The parcels immediately north and west were conditionally rezoned to “CR-R-1” (CR2022-0026 and RZ2018-0021). Approximately 1,300 feet west, a large parcel was rezoned “CR-R-1” (CR2019-0008), and subsequently Spring Hills Ranch Subdivision was approved in 2022 (SD2021-0044).

Approximately 2,000 feet east and 750 feet southeast are two large parcels rezoned to “R-R” (Rural Residential) in 2007 (RZ2006-10). A 40-acre portion approximately 2,000 feet east received preliminary plat approval (Ridgeland Estates Subdivision, SD2020-0036).

#### Subdivisions (Exhibit 3h)

Within a one-mile radius, there are 36 subdivisions with an average lot size of 1.62 acres and four approved preliminary plats with a 1.68-acre average lot size.

#### Character of Area

The area consists of a mixed agricultural and residential zoning designation (Exhibit 3a, 3f & 3m). South of Purple Sage Road, the properties zoned “A” consist of old subdivisions that make agricultural production south of Purple Sage Road sporadic. North of Purple Sage Road, outside of the Middleton Area of City Impact, rural residential and large agricultural production exist.

The parcel consists of Class III, moderately-suited soils, and is considered prime farmland (Exhibit 3i). The parcel is sandwiched between three residential parcels and a residential development created by Drake Subdivision. The parcel is less than five acres and does not have a bona fide agricultural operation; and therefore, does not qualify for an agricultural tax exemption (Idaho Code 63-604). Canyon Soils Conservation District has no comment or concern regarding the request (Exhibit 4d).

Based on the contours of the property (Exhibit 3k), there are no slopes 15% or greater. Therefore, the request does not propose hillside development.

The property is not located near any gravel pits but is within one mile of three feedlots and over one mile from two dairies (Exhibit 3j). The nearest feedlot, Rising Star Cattle, is located north of Purple Sage Road approximately 1,400 feet northeast of the subject parcel.

#### Adequate services

The parcel is currently served by a septic and well (Exhibit 2a). Future lots will be served by individual wells and septic. The parcel is located within a nitrate priority area (Exhibit 3l). A Nitrogen Pathogen (NP) Study will be required by Southwest District Health at the time of platting. No comments were received from Southwest District Health.

Powerline bisects the property that can serve the request (Exhibit 5). No comments were received from ID Power or Intermountain Gas.

The property is currently served by an irrigation well with rights to one inch per acre a year (Exhibit 2c). The well appears to be located on parcel R38194010A, outside of the subdivision, which crossed the CE10.2-5.1 Lateral to serve the request (Exhibit 2b).

Potential Impact: Black Canyon Irrigation District (BCID) identifies concerns regarding the irrigation serving the request (Exhibit 4e). BCID finds the property has surface water rights via Drake Subdivision. BCID requests the applicant to work with Drake Subdivision HOA to address the issue. Also, the groundwater well to be used for irrigation crosses the lateral and is located within the district

easements. The applicant requires a license/crossing agreement approval from BCID. BCID recommends their concerns be conditions of the development agreement so they are addressed during platting.

#### Access/Traffic

The property has legal access from Harvey Road via a 25' open public right-of-way. The request will be required to meet private road requirements and construction standards (CCZO Section 07-10-03 and 07-17-31).

The request allowed three lots to be developed for residential use which created 28.56 average daily trips (ADT) per CCZO Section 07-10-03(3)A1.3, and 57.12 ADT if all three parcels had secondary dwellings. Highway District #4 (HD4) finds the request does not trigger a traffic impact study (Exhibit 4c). HD4 will require public right-of-way dedication and payment of impact fees as traffic impact mitigation measures. Idaho Transportation Department (ITD) finds any impacts based on the request to be minimal (Exhibit 4b).

#### Essential Services

The property has an existing dwelling served by Middleton Fire District (Exhibit 2a), Middleton School District, Canyon County Sheriff's Department, and Canyon County Paramedics/EMT (Exhibit 6) An additional two lots are not anticipated to impact essential services. No comments were received from the stated agencies.

### **COMMENTS**

- Public: Property owners within 600' of the subject parcel were notified on December 20, 2023. A newspaper notice was published on December 22, 2023. A notice was posted on the property on December 29, 2023.
  - No public comments received
- Agencies: Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023. The following agencies submitted comments:
  - City of Middleton – Exhibit 4a (submitted by the applicant)
  - Highway District #4 (formerly Canyon Highway District #4) – Exhibit 4c
  - Black Canyon Irrigation District – Exhibit 4e
  - Idaho Transportation Department – Exhibit 4b
  - Canyon Soils Conservation District – Exhibit 4d

### **RECOMMENDATION**

Staff is recommending approval of the request. Based on the information and comments submitted, and recommended development agreement conditions, the request meets the required criteria (CCZO Section 07-06-07(6)A). See Exhibit 8 for draft Findings of Fact and Conclusion of law for the Planning and Zoning Commission to consider.

### **DECISION OPTIONS**

The Planning and Zoning Commission may

- Recommend approval of the conditional rezone;
- Recommend denial of the conditional rezone; or
- Table the hearing of the conditional rezone to a date certain for the applicant or staff to provide additional information.

### **EXHIBITS**

1. Parcel Information Report – Parcel R38194010A

2. Applicant Submitted Information
  - a. Letter of Intent
  - b. Conceptual Site Plan
  - c. Land Use Worksheet
  - d. Neighborhood Meeting
  - e. Warranty Deed
3. Maps
  - a. Aerial
  - b. Vicinity
  - c. Future Land Use – 2020 Comp. Plan
  - d. Future Land Use – 2030 Comp. Plan
  - e. Future Land Use – Middleton
  - f. Zoning
  - g. Cases w/report
  - h. Plats w/ report
  - i. Soils/Farmland w/report
  - j. Dairy, Feedlot, and Gravel Pits
  - k. Contours
  - l. NP/Well
  - m. Lot Classification
4. Comments
  - a. Middleton (provided by applicant)
  - b. ITD
  - c. HD4
  - d. Canyon Soils District
  - e. Black Canyon Irrigation District
5. Google Site Visit
6. BP2022-0572
7. AD2022-0003
8. Draft FCOs w/Development Agreement Conditions

# R38194010A PARCEL INFORMATION REPORT

1/9/2024 4:23:30 PM

PARCEL NUMBER: **R38194010A**

OWNER NAME: **KELLEY RAE LYNN**

CO-OWNER: **KELLEY SHAWN LEE**

MAILING ADDRESS: **24720 HARVEY RD CALDWELL ID 83607**

SITE ADDRESS: **24720 HARVEY RD**

TAX CODE: **0320000**

TWP: **5N** RNG: **3W** SEC: **35** QUARTER: **NW**

ACRES: **4.12**

HOME OWNERS EXEMPTION: **No**

AG-EXEMPT: **No**

DRAIN DISTRICT: **NOT In Drain Dist**

ZONING DESCRIPTION: **AG / AGRICULTURAL**

HIGHWAY DISTRICT: **CANYON HWY**

FIRE DISTRICT: **MIDDLETON FIRE**

SCHOOL DISTRICT: **MIDDLETON SCHOOL DIST**

IMPACT AREA: **MIDDLETON**

FUTURE LAND USE 2011-2022 : **Res**

FLU Overlay Zone Desc 2030:

FLU RR Zone Desc 2030:

FUTURE LAND USE 2030: **Res**

IRRIGATION DISTRICT: **BLACK CANYON IRRIGATION DIST**

FEMA FLOOD ZONE: **X** FLOODWAY: **NOT In** FLOODWAY FIRM PANEL: **16027C0235F**

WETLAND: **Riverine**

NITRATE PRIORITY: **NE CANYON CO.**

FUNCTIONAL Classification: **NOT In COLLECTOR**

INSTRUMENT NO. : **2023028001**

SCENIC BYWAY: **NOT In Scenic Byway**

LEGAL DESCRIPTION: **35-5N-3W NW TX 22170 IN NWNW**

PLATTED SUBDIVISION:

SMALL CITY ZONING:

SMALL CITY ZONING TYPE:



## DISCLAIMER:

1. FEMA FLOOD ZONE REFERS TO THE DESIGNATED FEMA FLOOD AREAS. POSSIBLY ONE (1) OF SEVERAL ZONES - SEE FIRM PANEL NUMBER.
2. THIS FORM DOES NOT CALCULATE DATA FOR PARCELS INSIDE CITY LIMITS SO WATCH YOURSELVES.
3. WETLANDS CLASSIFICATION WILL POPULATE IF "ANY" PORTION OF SAID PARCEL CONTAINS A DELINEATED WETLAND.
4. COLLECTORS AND ARTERIALS ARE BASED ON THE SHERIFF'S CENTERLINE WITH AN ADDITIONAL 100 FOOT BUFFER.

CANYON COUNTY ASSUMES NO LIABILITY FOR DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OR MISUSE OF THIS PARCEL INFORMATION TOOL OR ANY OF THE INFORMATION CONTAINED HEREIN.



Dan Lister, Planning Official  
Canyon County Development Services  
111 N. 11<sup>th</sup> Ave. Room 310  
Caldwell, ID 83605

RE: Letter of Intent – Parcel No. R38194010A  
Zoning Map Amendment/Conditional Rezone, Preliminary Plat & Private Road

Dear Mr. Lister:

Please accept the enclosed applications for a Zoning Map Amendment/Conditional Rezone with a Development Agreement, Preliminary Plat and Private Road for the development of Parcel #R38194010A0, generally located on the east side of Harvey Rd., approximately ¼ mile south of Purple Sage Rd., within the City of Middleton's Area of Impact.

**Zoning Map Amendment/Conditional Rezone:**

The property consists of 4.12 acres of land currently zoned for Agricultural use in Canyon County. A zoning map amendment and conditional rezone to R-1 is proposed consistent with the zoning amendment criteria listed in CCZO §07-06-05 and §07-06-07(6), as detailed below.

The proposed R-1 (residential) zoning is consistent with the Comprehensive Plan future land use designation of Residential for the property and is more appropriate than the existing agricultural zoning for the property due to the residential nature of the area.

The abutting property to the east is zoned CR-R1 and is in the process of developing with 1+/- acre lots; the abutting properties to the north and south and across Harvey Rd. to the west are all zoned Agricultural and developed with residential uses. The proposed R-1 zoning and residential use of the property will be compatible with adjacent land uses and will not negatively affect the character of the area. Proposed lot sizes will be slightly larger but generally comparable to those to the south.

Each of the proposed building lots will be developed with its own well and septic system and drainage, irrigation, and utilities will be provided for each lot.

A legal access exists to this property from Harvey Rd. A private road is proposed from Harvey Rd. for access to the proposed lots. Public street improvements are not required with the proposed map amendment in order to provide access to and from the subject property.

Approval of the proposed map amendment/conditional rezone and subsequent development should have minimal impacts on essential public services and facilities, such as schools, police, fire and emergency medical services as only three (3) building lots are proposed.

We are amenable to the requirement of a Development Agreement as a provision of the rezone that ties future development to that proposed with this application.

**Preliminary Plat:**

A preliminary plat consisting of three (3) residential building lots is proposed with each lot consisting of an average minimum lot size of 1 acre as required in the R-1 district. No open space lots are proposed or required. Each lot will be improved with a well and septic system and adequate drainage, irrigation and utilities will be provided. Because the proposed lot sizes are compatible with those to the south, there should be no adverse impacts on those properties. A waterway separates this property from the property to the north and provides a natural buffer and separation.

A lot for a private road is proposed for access from Harvey Rd. to the proposed building lots and will be constructed to the standards for 100 average daily trips or less.

Because there isn't any curb, gutter or sidewalk along Harvey Rd. in this area, we request a waiver from these requirements.

Sincerely,

Shawn & Rae Lynn Kelley

MIDDLETON RURAL FIRE DISTRICT



STAR FIRE PROTECTION DISTRICT

FIRE DEPARTMENT ACCESS AND WATER SUPPLY RESIDENTAL CONSTRUCTION APPLICATION

PLEASE PRINT

Date: 4/19/2022

Contractor: Top to Bottom Construction		Contact: Shawn Kelley		<input checked="" type="checkbox"/> Owner Build
Address: 3684 W South Slope		City: Emmett		Zip: 83617
Phone/Mobile: (208) 697-8306		Email Address: skellet@gmail.com		
Owner(s): owner builder				
Address:		City:		Zip:
Phone/Mobile:		Email Address:		
PROJECT INFORMATION				
Project Location: 0 TBD Harvey Lane			County: Canyon	
Legal Description: Part of the Northwest 1/4 of S Lot:		Block:	Subdivision: na	
Total Acres: 4.12	Total Sq. Ft.:	Stories Above Grade:	Stories Below Grade:	
APPARATUS ACCESS & TURN-AROUND				
<i>Fire apparatus access roads shall have an unobstructed width of not less than 20 feet exclusive of shoulders with an unobstructed vertical clearance of not less than 13 feet 6 inches. The surface shall be capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Access roads over 150ft from the public roadway will require emergency turnaround.</i>				
How many dwellings will access the road? 1		Road/Driveway Length: 655ft		
Will the road have a gate? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Is the road 7% grade or less? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
WATER SUPPLY				
<i>Fire Flow and Water Supply - One- and two-family dwellings not exceeding 3,600 square feet require a fire flow of 1,000 gallons per minute for a duration of 1 hour to service the entire project. One- and two-family dwellings in excess of 3,600 square feet require a minimum fire flow as specified in Appendix B of the International Fire Code.</i>				
Is the dwelling within 1000ft from an approved fire hydrant? <input type="checkbox"/> Yes - Location:				<input checked="" type="checkbox"/> No
APPLICANT COMMENTS				
FIRE CODE OFFICIAL USE ONLY				
Apparatus Access and Turn-Around <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a		Application & Plans Received: (Date By) 4/19/22 aa DB		
Water Supply <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a Type:		Permit Fee: \$100.00 <input checked="" type="checkbox"/> Paid <input type="checkbox"/> Cash <input type="checkbox"/> Credit Card Check # 1003		
Knox Box or Gate Switch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a Type:		Fire Authority Having Jurisdiction: Middleton RED		
Notes: Drive way / Turn-Around approved as submitted * 2 hr fire wall shop / living		Fire District Permit # 22 MS-068		
		City/County Jurisdiction: Canyon CU		
		County/City Permit #		
		Emergency Access and Water Supply Application Status		
		<input type="checkbox"/> Approved <input checked="" type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied		
		Fire Code Official: [Signature] Date: 5/19/22		

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

MIDDLETON RURAL FIRE DISTRICT



STAR FIRE PROTECTION DISTRICT

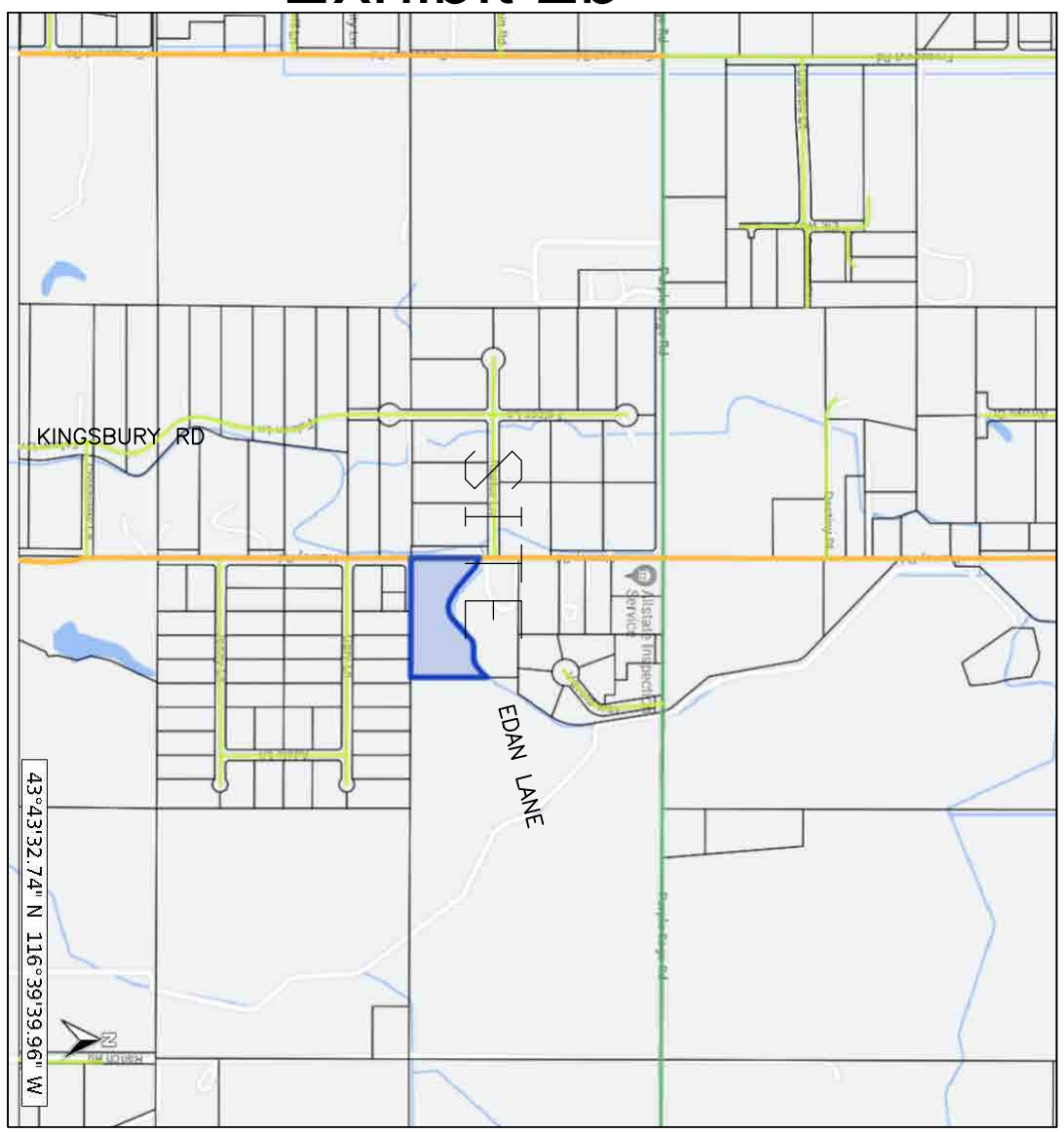
**FIRE DEPARTMENT ACCESS AND WATER SUPPLY  
RESIDENTIAL CONSTRUCTION APPLICATION SUMMARY**

PROJECT INFORMATION		
Review Date: <u>5/19/22</u>	Fire District Permit # <u>22MS-068</u>	Fire Code Official <u>U. ISAAS</u>
Project Location: <u>TBA HARVEY Lane</u>		
Authority Having Jurisdiction: <input checked="" type="checkbox"/> Middleton Rural Fire District <input type="checkbox"/> Star Fire Protection District		

MEMORANDUM OF UNDERSTANDING
<p>I understand that the above reference permit shall expire one (1) year from the date of issue. If a Certificate of Inspection has not been obtained by the Fire District before the review date above, I understand that the permit shall be void, and a new plan review and permit (with accompanying fees and code changes) must be obtained.</p> <p>I understand that the attached permit defines requirements that I have agreed to meet, and that my project shall be completed within those requirements and in accordance with the drawings. I have provided the Fire Code Official. I understand that significant (in the Fire Code Officials judgment) deviation from the approved drawings or permit document will result in the voiding of the permit and require a new plan review and permit to be issued.</p> <p>The Fire Code Official has provided he with copies of the following documents:</p> <ul style="list-style-type: none"><li>• Application/Permit</li><li>• Memorandum of Understanding</li><li>• Required Inspection List</li></ul> <p>I understand that I am responsible for scheduling required inspections with the Fire District in a timely manner.</p> <p>I understand that re-inspections will carry an additional fee, as described in the Fee Schedule, which must be paid to the Fire District before issuance of Certificate of Inspection.</p> <p>I certify that I am the Builder or Owner of this project, or I am an authorized agent and empowered to sign this document.</p>
Builder/Owner Signature: <u>[Signature]</u> Date: <u>5-20-22</u> Fire Code Official: <u>[Signature]</u>

REQUIRED INSPECTIONS	
<input checked="" type="checkbox"/> FIRE DEPARTMENT ACCESS	<input checked="" type="checkbox"/> WATER SUPPLY
<input checked="" type="checkbox"/> Driveway	<input type="checkbox"/> NFPA 13D Sprinkler System
<input type="checkbox"/> Knox Box	<input type="checkbox"/> Hydro Inspection
<input type="checkbox"/> Knox Gate Switch	<input type="checkbox"/> Rough to cover
<input checked="" type="checkbox"/> Turnaround	<input type="checkbox"/> Tinting
<input checked="" type="checkbox"/> Address	<input type="checkbox"/> Water flow
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Final Inspection
	<input type="checkbox"/> Other: _____
<p>To schedule an inspection with the Fire Code Official, contact our Fire District Headquarters at (208) 286-7772. Provide the permit number, address, and inspection type. Inspections will be scheduled within 24-48 hours.</p>	

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



VICINITY MAP  
SCALE: 1"=1000'

CHRISTINA TUCKER  
24847 HARVEY RD.  
CALDWELL, ID 83607

UNPLATTED

LEGEND

- Found Brass Cap
- Found 5/8" rebar
- Found Aluminum Cap
- Found 1/2" rebar
- ( ) Record Distance
- ③ Lot Number
- P.O.B. Point of Beginning

- Boundary Line
- Section Line
- Lot Line
- Centerline
- Easement Line
- Existing Fence Line
- Contour Line
- Existing Telephone Line
- Existing Overhead Power
- Existing Edge of Pavement
- Existing Edge of Gravel
- Existing Top of Bank

SITE:

CURRENT ZONING: AG-1  
PROPOSED ZONING: R-1  
LOT SIZE: 45,973 SF/1.06 AC  
TOTAL AREA: 179,444 SF/4.12 AC  
SITE ADDRESS: 0 HARVEY ROAD

OWNER/DEVELOPER:

SHAWN AND RAE KELLEY  
0 HARVEY ROAD  
CALDWELL, ID. 83607  
208-697-8306  
LAND SURVEYOR:  
JEREMAH B. FIELDING, P.L.S.  
106 W. MAIN ST. UNIT D  
MIDDLETON, ID. 83664  
208-861-7513

MATTHEW CRANE  
24841 HARVEY RD.  
CALDWELL, ID 83607

UNPLATTED

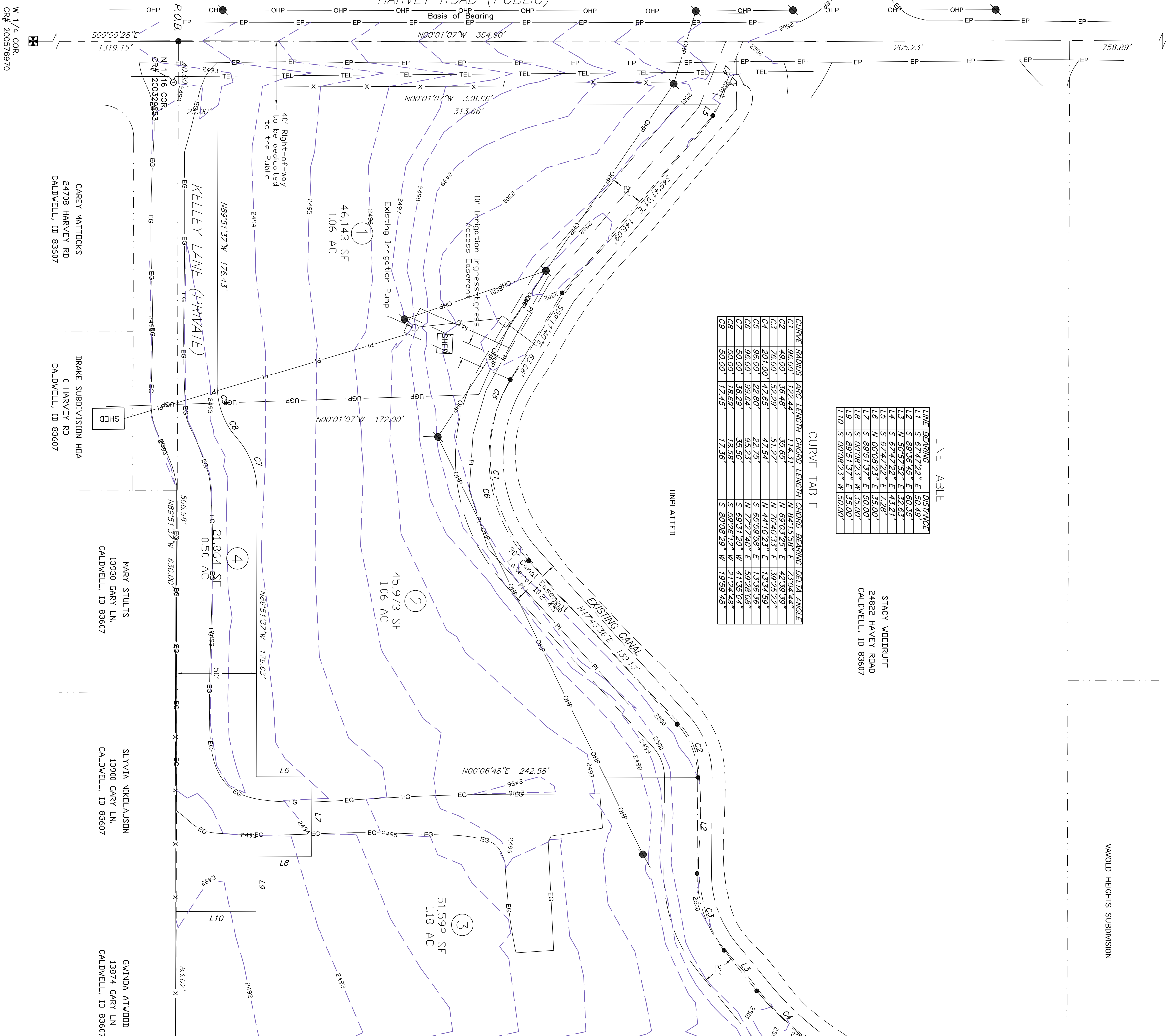
RANDALL RIVLAND  
24750 FAUCON LANE  
CALDWELL, ID 83607

NW COR. SEC. 35  
CMP# 200329250

PURPLE SAGE ROAD (PUBLIC)  
S89°12'57" E 1421.28'

W 1/16 COR.  
CMP# 200329251

VAHOLD HEIGHTS SUBDIVISION



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 67°47'22" E	50.49'
L2	S 89°36'45" E	60.35'
L3	S 67°47'22" E	44.21'
L4	S 67°47'22" E	7.28'
L5	S 67°47'22" E	15.00'
L6	S 67°47'22" E	15.00'
L7	S 67°47'22" E	15.00'
L8	S 67°47'22" E	15.00'
L9	S 67°47'22" E	15.00'
L10	S 67°47'22" E	15.00'

CURVE TABLE

CURVE	BEARING	CHORD	LENGTH	CHORD	BEARING	DELTA	ANGLE
C1	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C2	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C3	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C4	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C5	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C6	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C7	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C8	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C9	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	
C10	N 84°15'58" E	17.04'	17.04'	N 84°15'58" E	17.04'	17.04'	

NOTES

- MINIMUM BUILDING SETBACKS SHALL BE IN ACCORDANCE WITH THE APPLICABLE ZONING AND SUBDIVISION REGULATIONS AT THE TIME OF ISSUANCE OF INDIVIDUAL BUILDING PERMITS, OR AS SPECIFICALLY APPROVED AND/OR REQUIRED, OR AS SHOWN ON THIS PLAN.
- THIS DEVELOPER RECOGNIZES SECTION 22-4503 OF THE IDAHO CODE, RIGHT TO FARM ACT, WHICH STATES: "NO AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF SHALL BE OR BECOME A NUISANCE, PRIVATE OR PUBLIC, BY ANY CHANGED CONDITIONS IN OR ABOUT THE SURROUNDING NONAGRICULTURAL ACTIVITIES AFTER IT HAS BEEN IN OPERATION FOR MORE THAN ONE (1) YEAR, WHEN BEGUN OR WAS CONSTRUCTED. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY WHEN A NUISANCE RESULTS FROM THE IMPROPER OR NEGLIGENT OPERATION OF AN AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF."
- IRRIGATION WATER SHALL BE PROVIDED TO EACH LOT THROUGH A PRESSURIZED IRRIGATION SYSTEM OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION HOMEOWNERS ASSOCIATION IN COMPLIANCE WITH THE IDAHO CODE SECTION 31-3805(1)(b). ALL LOTS WILL BE SUBJECT TO ASSESSMENTS OF THE BLACK CANYON IRRIGATION DISTRICT.
- ALL LOT LINES COMMON TO A PUBLIC RIGHT-OF-WAY SHALL HAVE A TEN (10) FOOT WIDE PROPERTY DRAINAGE, IRRIGATION, AND PUBLIC UTILITY EASEMENT UNLESS SHOWN OTHERWISE.
- ALL REAR LOT LINES ADJACENT TO THE SUBDIVISION BOUNDARY SHALL HAVE A TEN (10) FOOT WIDE PROPERTY DRAINAGE, IRRIGATION, AND PUBLIC UTILITY EASEMENT UNLESS SHOWN OTHERWISE.
- ANY RE-SUBDIVISION OF THIS PLAN SHALL COMPLY WITH THE APPLICABLE ZONING REGULATIONS IN EFFECT AT THE TIME OF RE-SUBDIVISION.
- LOTS BE REQUIRED TO DRILL A WELL FOR DOMESTIC WATER.
- LOTS WILL BE REQUIRED TO PROVIDE AN INDIVIDUAL SEPTIC SYSTEM.
- STORM DRAINAGE FACILITIES OUTSIDE THE PUBLIC RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION OR PROPERTY OWNER WHICH IS RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITY. RESPONSIBILITY FOR STORM DRAINAGE FACILITIES INCLUDES ALL MAINTENANCE BOTH ROUTINE AND NON-ROUTINE.
- NO NEW DEVELOPMENT OR REDEVELOPMENT OF LAND MAY DISCHARGE STORM WATER INTO OR ONTO ANY DISTRICT RIGHT-OF-WAY OR INTO THE DISTRICT'S MUNICIPAL SEPARATE STORM SEWER SYSTEM.
- LOT 4 BLOCK 1 SHALL BE A PRIVATE ROAD LOT TO BE OWNED AND MAINTAINED BY THE HARVEY ESTATES SUBDIVISION HOMEOWNERS ASSOCIATION.

SURVEYOR'S CERTIFICATE

I, JEREMAH B. FIELDING, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR LICENSED BY THE STATE OF IDAHO, AND THAT THIS MAP HAS BEEN PREPARED FROM AN ACUATE SURVEY MADE ON THE FIELD AND THAT THIS MAP IS AN ACCURATE REPRESENTATION OF SAID SURVEY.

JEREMAH B. FIELDING, P.L.S.  
IDAHO LICENSE NO. 12220

EAGLE LAND SURVEYING, LLC.  
108 W. MAIN ST. SUITE 200  
CALDWELL, IDAHO 83607  
TEL: 208-725-1515 FAX: 208-725-0000

PRELIMINARY PLAT  
OF  
ALPINE VIEW ESTATES SUB.

SEC. 35, T. 5 N., R. 3 W., B.M.

DATE	6-24-23	PROJECT	22-098	SHEET	1
DRAWN BY	JB	CHECKED BY	JB	OF	1
DESIGNED BY	JB	APPROVED BY	JB		
REVISED:	7-13-23				

PRELIMINARY PLAT OF  
ALPINE VIEW ESTATES SUBDIVISION  
PART OF THE NW 1/4 OF THE NW 1/4 OF  
SECTION 35, T. 5 N., R. 3 W., B.M.  
CANYON COUNTY, IDAHO  
2023

**LAND USE WORKSHEET**

**CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**

111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605

[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx) Phone: 208-454-7458 Fax: 208-454-6633



Required for Conditional Use Permit, Comprehensive Plan and Zoning Ordinance Amendment Applications

**PLEASE CHECK ALL THAT APPLY TO YOUR REQUEST:**

**GENERAL INFORMATION**

1. **DOMESTIC WATER:**  Individual Domestic Well  Centralized Public Water System  City  
 N/A – Explain why this is not applicable: \_\_\_\_\_  
 How many Individual Domestic Wells are proposed? 3 total

2. **SEWER (Wastewater)**  Individual Septic  Centralized Sewer system  
 N/A – Explain why this is not applicable: \_\_\_\_\_

3. **IRRIGATION WATER PROVIDED VIA:** No surface  
 Surface  Irrigation Well  None  
ground water through IOWB

4. **IF IRRIGATED, PROPOSED IRRIGATION:**  
 Pressurized  Gravity

5. **ACCESS:** Private Rd  
 Frontage  Easement Easement width \_\_\_\_\_ Inst. # \_\_\_\_\_

6. **INTERNAL ROADS:**  
 Public  Private Road User's Maintenance Agreement Inst # \_\_\_\_\_

7. **FENCING**  Fencing will be provided (Please show location on site plan)  
 Type: \_\_\_\_\_ Height: \_\_\_\_\_

8. **STORMWATER:**  Retained on site  Swales  Ponds  Borrow Ditches  
 Other: \_\_\_\_\_

9. **SOURCES OF SURFACE WATER ON OR NEARBY PROPERTY:** (i.e. creeks, ditches, canals, lake)  
canal on north side of property

**RESIDENTIAL USES**

**1. NUMBER OF LOTS REQUESTED:**

- Residential 43       Commercial \_\_\_\_\_       Industrial \_\_\_\_\_  
 Common \_\_\_\_\_       Non-Buildable 1 (private road)

**2. FIRE SUPPRESSION:**

- Water supply source: see attached letter from Fire Department

**3. INCLUDED IN YOUR PROPOSED PLAN?**

- Sidewalks       Curbs       Gutters       Street Lights       None

**NON-RESIDENTIAL USES**

N/A

**1. SPECIFIC USE:** \_\_\_\_\_

**2. DAYS AND HOURS OF OPERATION:**

- Monday \_\_\_\_\_ to \_\_\_\_\_  
 Tuesday \_\_\_\_\_ to \_\_\_\_\_  
 Wednesday \_\_\_\_\_ to \_\_\_\_\_  
 Thursday \_\_\_\_\_ to \_\_\_\_\_  
 Friday \_\_\_\_\_ to \_\_\_\_\_  
 Saturday \_\_\_\_\_ to \_\_\_\_\_  
 Sunday \_\_\_\_\_ to \_\_\_\_\_

**3. WILL YOU HAVE EMPLOYEES?**     Yes    If so, how many? \_\_\_\_\_     No

**4. WILL YOU HAVE A SIGN?**     Yes     No     Lighted     Non-Lighted

Height: \_\_\_\_\_ ft      Width: \_\_\_\_\_ ft.      Height above ground: \_\_\_\_\_ ft

What type of sign: \_\_\_\_\_ Wall \_\_\_\_\_ Freestanding \_\_\_\_\_ Other

**5. PARKING AND LOADING:**

How many parking spaces? \_\_\_\_\_

Is there is a loading or unloading area? \_\_\_\_\_

**ANIMAL CARE RELATED USES**

N/A

**1. MAXIMUM NUMBER OF ANIMALS:** \_\_\_\_\_

**2. HOW WILL ANIMALS BE HOUSED AT THE LOCATION?**

- Building     Kennel     Individual Housing     Other \_\_\_\_\_

**3. HOW DO YOU PROPOSE TO MITIGATE NOISE?**

- Building     Enclosure     Barrier/Berm     Bark Collars

**4. ANIMAL WASTE DISPOSAL**

- Individual Domestic Septic System     Animal Waste Only Septic System  
 Other: \_\_\_\_\_

**NEIGHBORHOOD MEETING SIGN-UP**

**CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**

111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605

[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx) Phone: 208-454-7458 Fax: 208-454-6633



**NEIGHBORHOOD MEETING SIGN UP SHEET**  
**CANYON COUNTY ZONING ORDINANCE §07-01-15**

Applicants shall conduct a neighborhood meeting for any proposed comprehensive plan amendment, zoning map amendment (rezone), subdivision, variance, conditional use, zoning ordinance map amendment, or other requests requiring a public hearing.

**SITE INFORMATION**

Site Address: <u>24720 Harvey RD.</u>	Parcel Number: <u>R38194010A</u>
City: <u>Caldwell</u>	State: <u>ID</u> ZIP Code: <u>83607</u>
Notices Mailed Date: <u>7-16-22</u>	Number of Acres: <u>4.12</u> Current Zoning: <u>Ag</u>
Description of the Request: <u>See attached letter</u>	

**APPLICANT / REPRESENTATIVE INFORMATION**

Contact Name: <u>Same as above</u>		
Company Name:		
Current address:		
City:	State:	ZIP Code:
Phone:	Cell:	Fax:
Email:		

**MEETING INFORMATION**

DATE OF MEETING: <u>7/29/22</u>	MEETING LOCATION:
MEETING START TIME:	MEETING END TIME:

**ATTENDEES:**

NAME (PLEASE PRINT)	SIGNATURE:	ADDRESS:
1. <u>Gerald Harbel</u>	<u>Gerald Harbel</u>	<u>24633 Adele Ln 83607</u>
2. <u>Gwen Atwood</u>	<u>Gwen Atwood</u>	<u>13874 Gary Ln 83607</u>
3. <u>Denise Matlocks</u>	<u>Denise Matlocks</u>	<u>24708 Harvey Rd</u>
4. <u>MARILYN REFSLOW</u>	<u>M. Refslow</u>	<u>24686 HARVEY RD 83602</u>
5. <u>Sgt. J. Nikke</u>	<u>Sylvia Nikopoulos</u>	<u>13900 Gary Lane 83607</u>
6. <u>Byanna Pugh</u>	<u>Byanna Pugh</u>	<u>13950 Jenny Ln 83607</u>
7. <u>Tamara Cecil</u>	<u>TAMARA Cecil</u>	<u>13875 Gary Ln 83607</u>
8. <u>Melissa Drees</u>	<u>Melissa Drees</u>	<u>13780 Gary Ln 83607</u>
9. <u>Mary &amp; Dan Stubb</u>	<u>Mary &amp; Dan Stubb</u>	<u>13930 Gary Ln</u>

Revised 11/25/20



10.	Joni Grier	Joni Grier	24910	Falcon Ln	Caldwell
11.	Just Giles	Just Giles	24613	Harvey Rd	Caldwell
12.	Patti Giles	Patti Giles	24613	Harvey Rd	Caldwell
13.	Shari Gorrish	Shari Gorrish	13825	Seung Lane	Caldwell
14.					
15.					
16.					
17.					
18.					
19.					
20.					

**NEIGHBORHOOD MEETING CERTIFICATION:**

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accordance with Canyon County Zoning Ordinance § 07-01-15.

APPLICANT/REPRESENTATIVE (Please print):

Rae Lynn Kelley \_\_\_\_\_

APPLICANT/REPRESENTATIVE (Signature):

*Rae Lynn Kelley* \_\_\_\_\_

DATE: 11 / 29 / 22

# Notice of Neighborhood Meeting for Zoning Ordinance Map Amendment Pre-application Requirement for a Public Hearing

June 16, 2022

Dear Neighbor:

We are in the process of submitting an application for a Zoning Ordinance Map Amendment to Canyon County Development Services (DSD). One of the requirements necessary prior to submitting the application is to hold a "neighborhood meeting" and provide information to our surrounding neighbors (Canyon County Zoning Ordinance § 07-01-15).

This meeting is for informational purposes and to receive feedback from you as we move through the application process. This is not a Public Hearing before a governing body of the County. Once our application has been submitted and processed, a public hearing date will be scheduled. Prior to the scheduled date you will receive an official notification from Canyon County DSD regarding the Public Hearing via postal mail, newspaper publication, and/or a display on the property for which the Zoning Ordinance Map Amendment is applied.

**The Neighborhood Meeting details are as follows:**

**Date: Wednesday, June 29, 2022**

**Time: 7:00 PM**

**Location: East side of Harvey Rd., just south of Raptor Ln. and the canal**





775 S. Rivershore Ln., Ste. 120  
Eagle, ID 83616

ELECTRONICALLY RECORDED-DO NOT  
REMOVE THE COUNTY STAMPED FIRST  
PAGE AS IT IS NOW INCORPORATED AS  
PART OF THE ORIGINAL DOCUMENT

**2022-017705**  
RECORDED  
**04/01/2022 10:38 AM**  
CHRIS YAMAMOTO  
CANYON COUNTY RECORDER  
Pgs=2 SCARDENAS \$15.00  
TYPE: DEED  
PIONEER TITLE CANYON - CALDWELL  
ELECTRONICALLY RECORDED

File No. 803478 BR/DM

**WARRANTY DEED**

For Value Received Jennifer Lee Sala, a single woman  
hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Shawn Kelley and Rae Kelley, husband and wife  
hereinafter referred to as Grantee, whose current address is 13259 Locust Lane Nampa, ID 83686  
The following described premises, to-wit:

See Exhibit A attached hereto and made a part hereof.

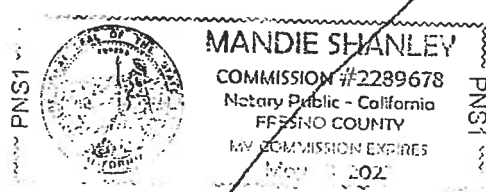
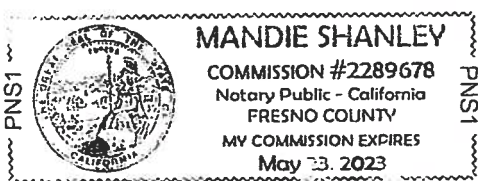
To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantees(s) heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the said Grantee(s), the Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to U.S. Patent reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and assessments, includes irrigation and utility assessments, (if any) which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: 3/29/22  
Jennifer Lee Sala  
Jennifer Lee Sala

State of California, County of Fresno

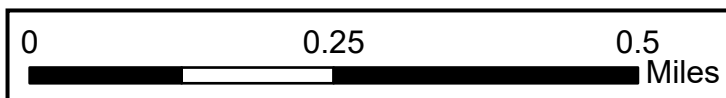
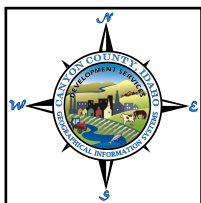
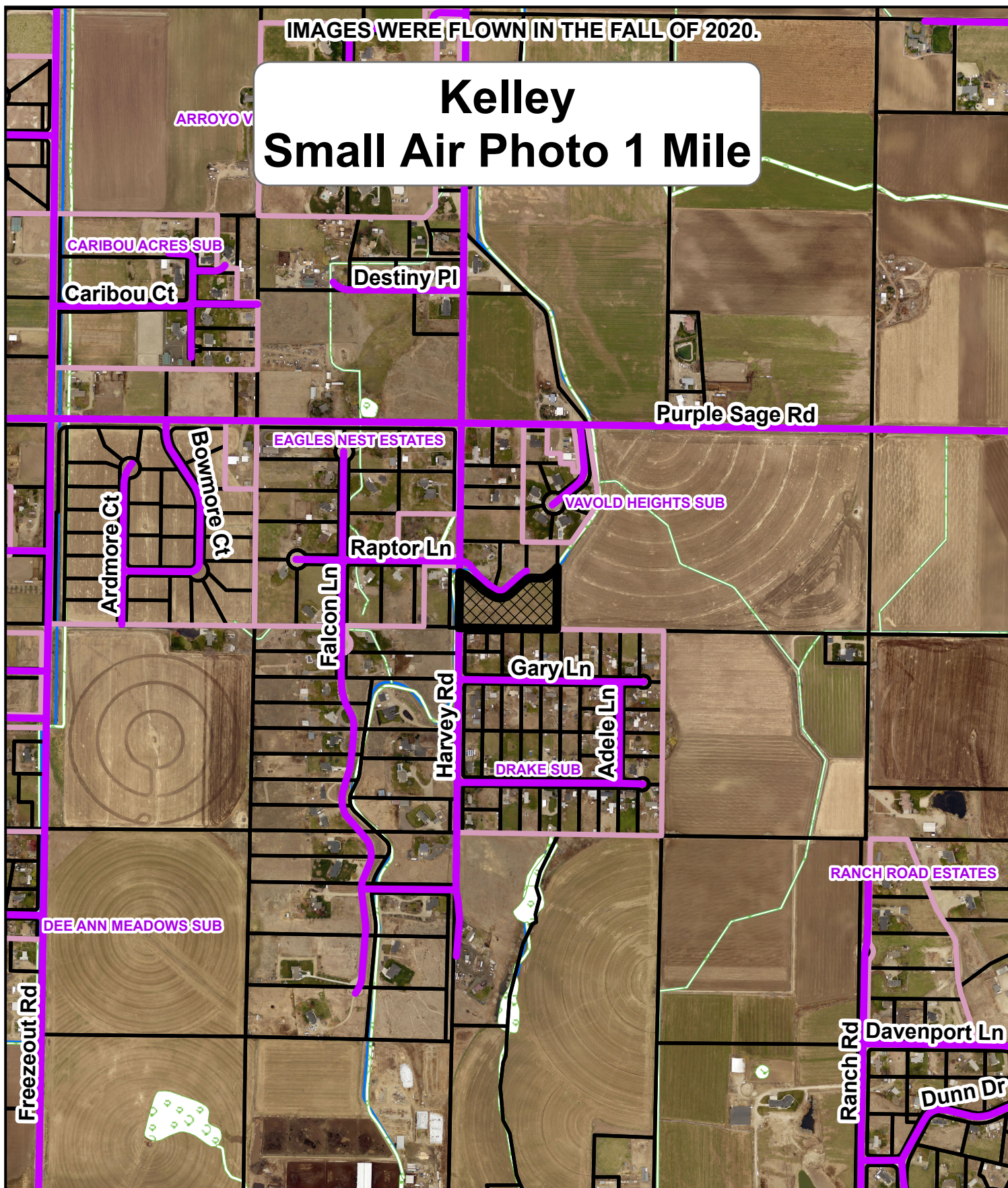
This record was acknowledged before me on March 29, 2022 by Jennifer Lee Sala

Mandie Shanley  
Signature of notary public  
Commission Expires: 5/23/23

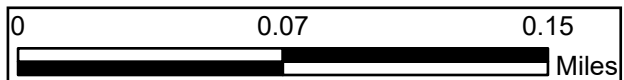
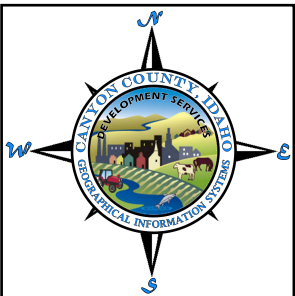
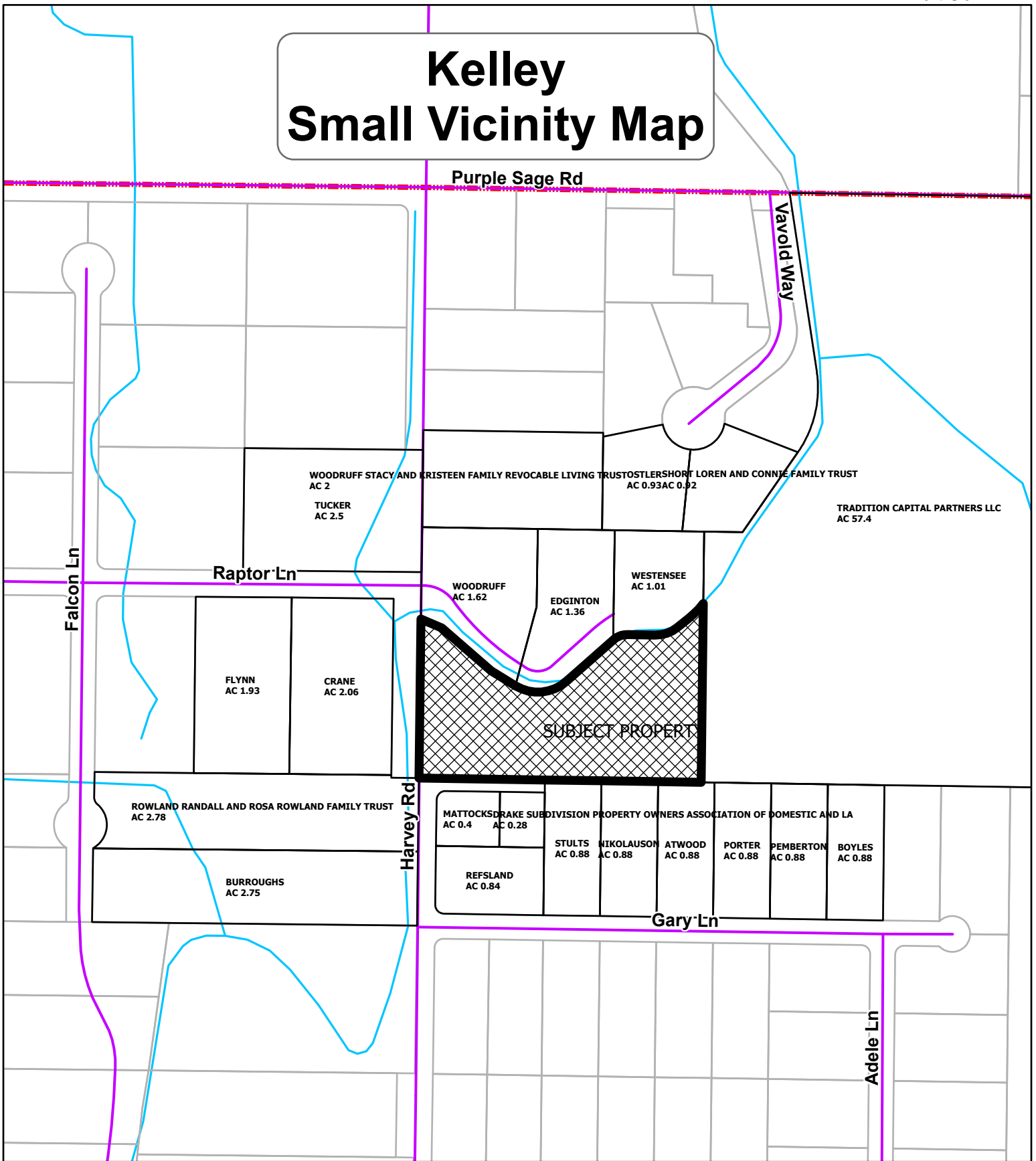


IMAGES WERE FLOWN IN THE FALL OF 2020.

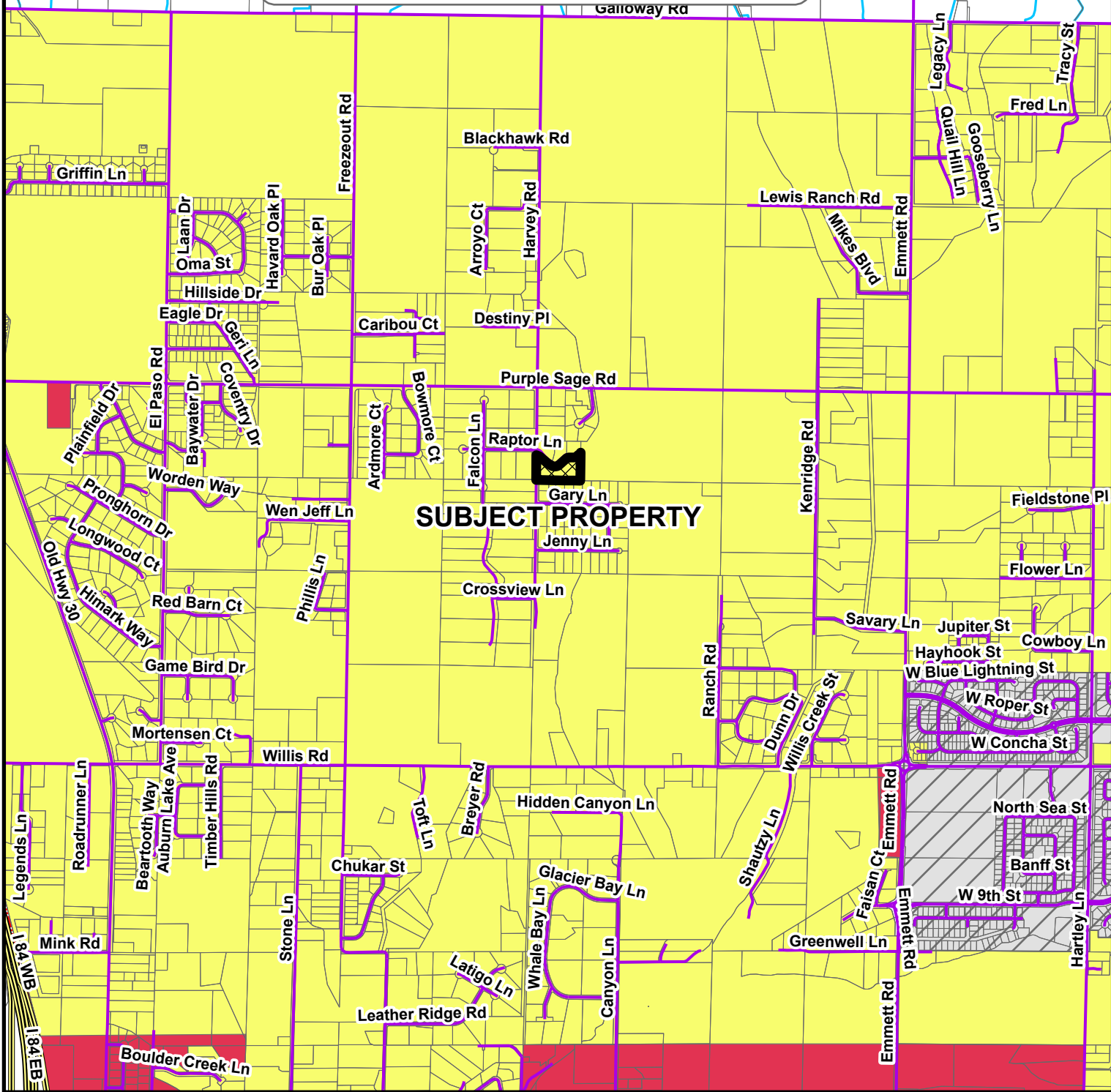
# Kelley Small Air Photo 1 Mile



# Kelley Small Vicinity Map



# Kelley Future Land Use map

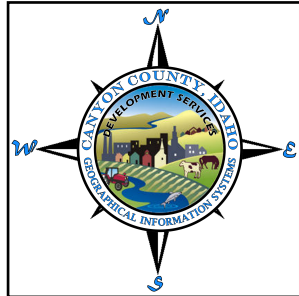
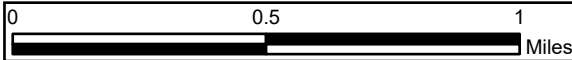


**SUBJECT PROPERTY**

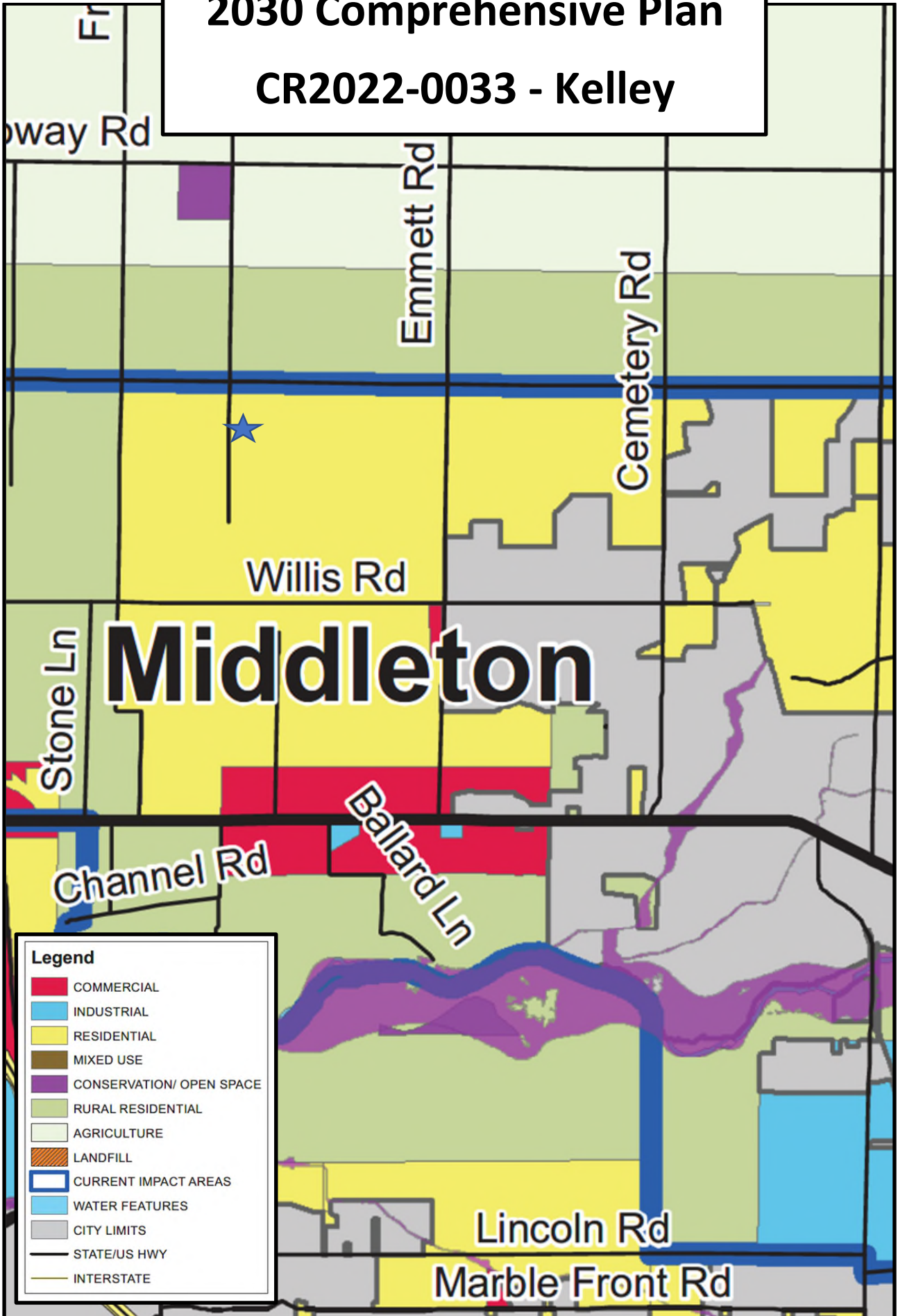
### Legend

Future Land Use 2011\_2022

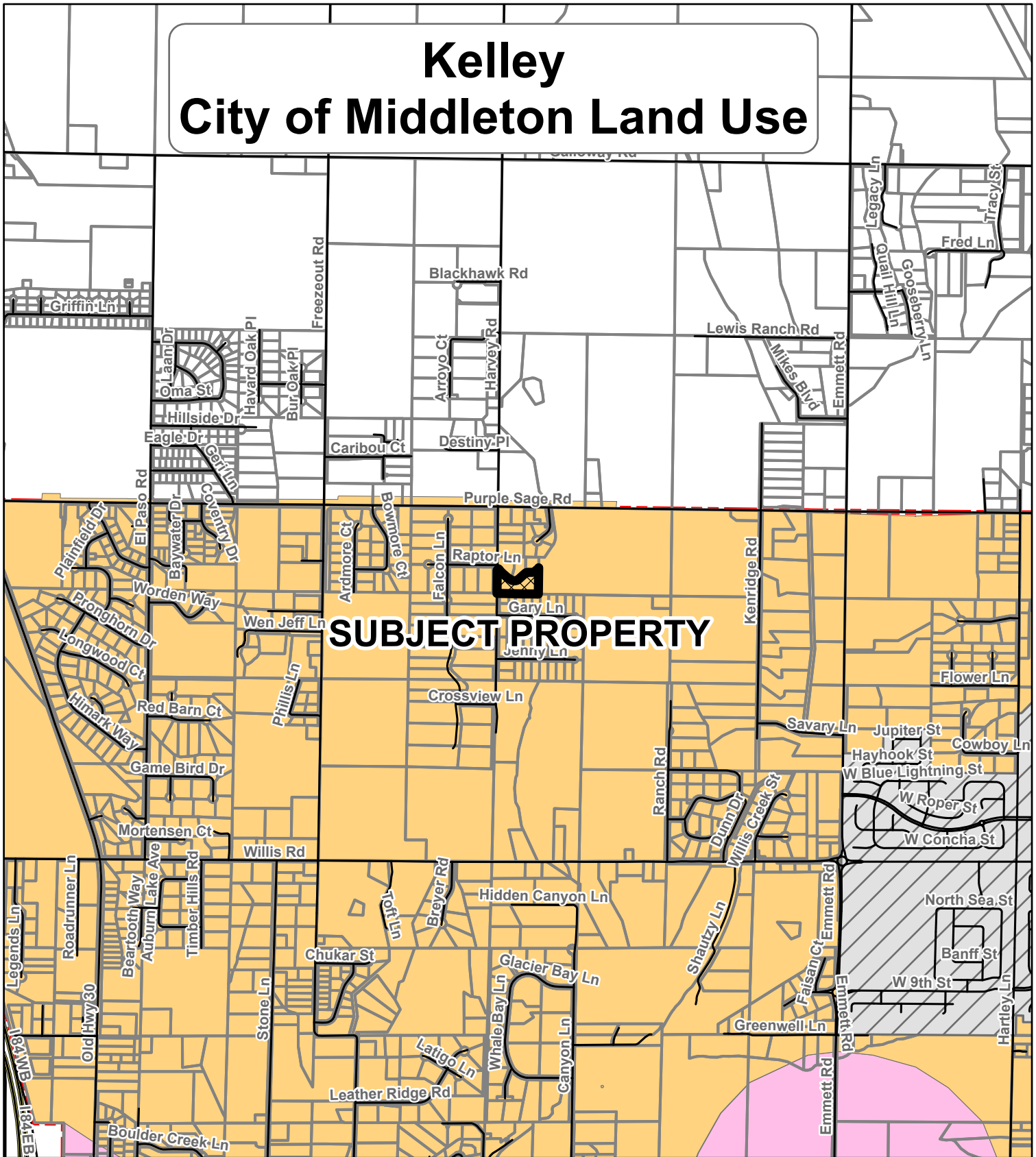
- COMMERCIAL
- INDUSTRIAL
- RESIDENTIAL



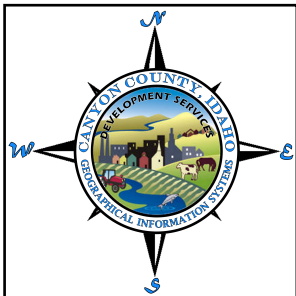
**2030 Comprehensive Plan  
CR2022-0033 - Kelley**



# Kelley City of Middleton Land Use

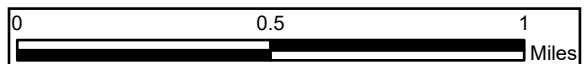


**SUBJECT PROPERTY**



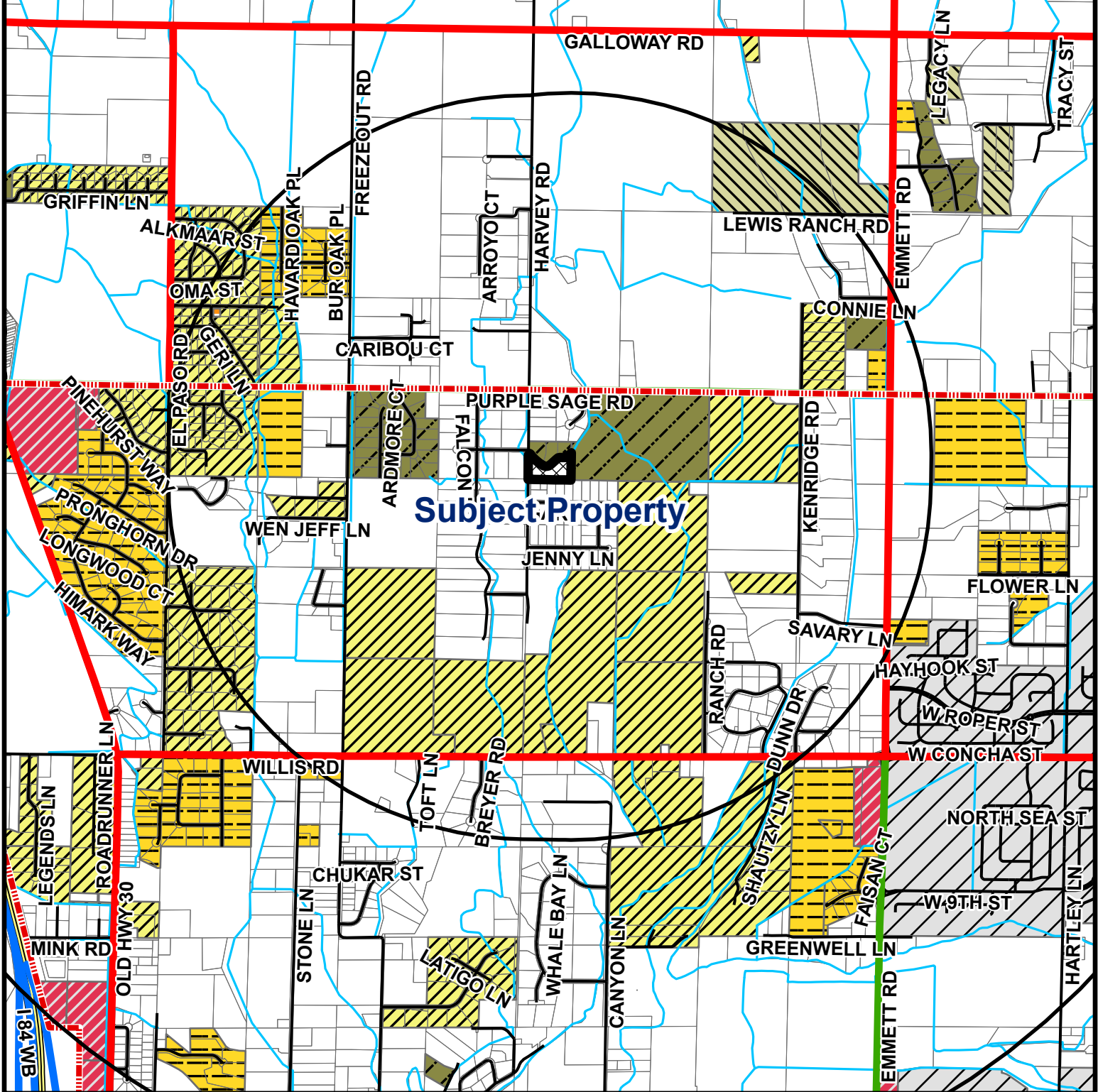
**MiddletonCompPlan**

- Commercial
- Industrial
- Mixed Use
- Public
- Residential
- Residential Special Areas
- Transit Oriented

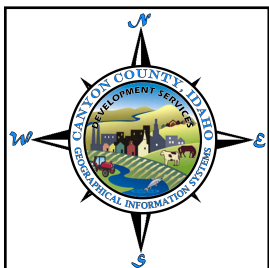




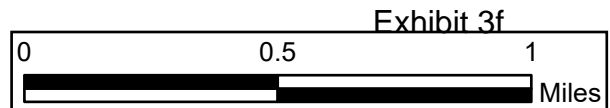
# Kelley Zoning & Classification Map



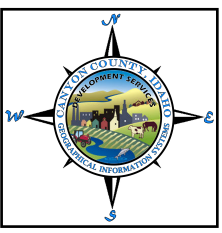
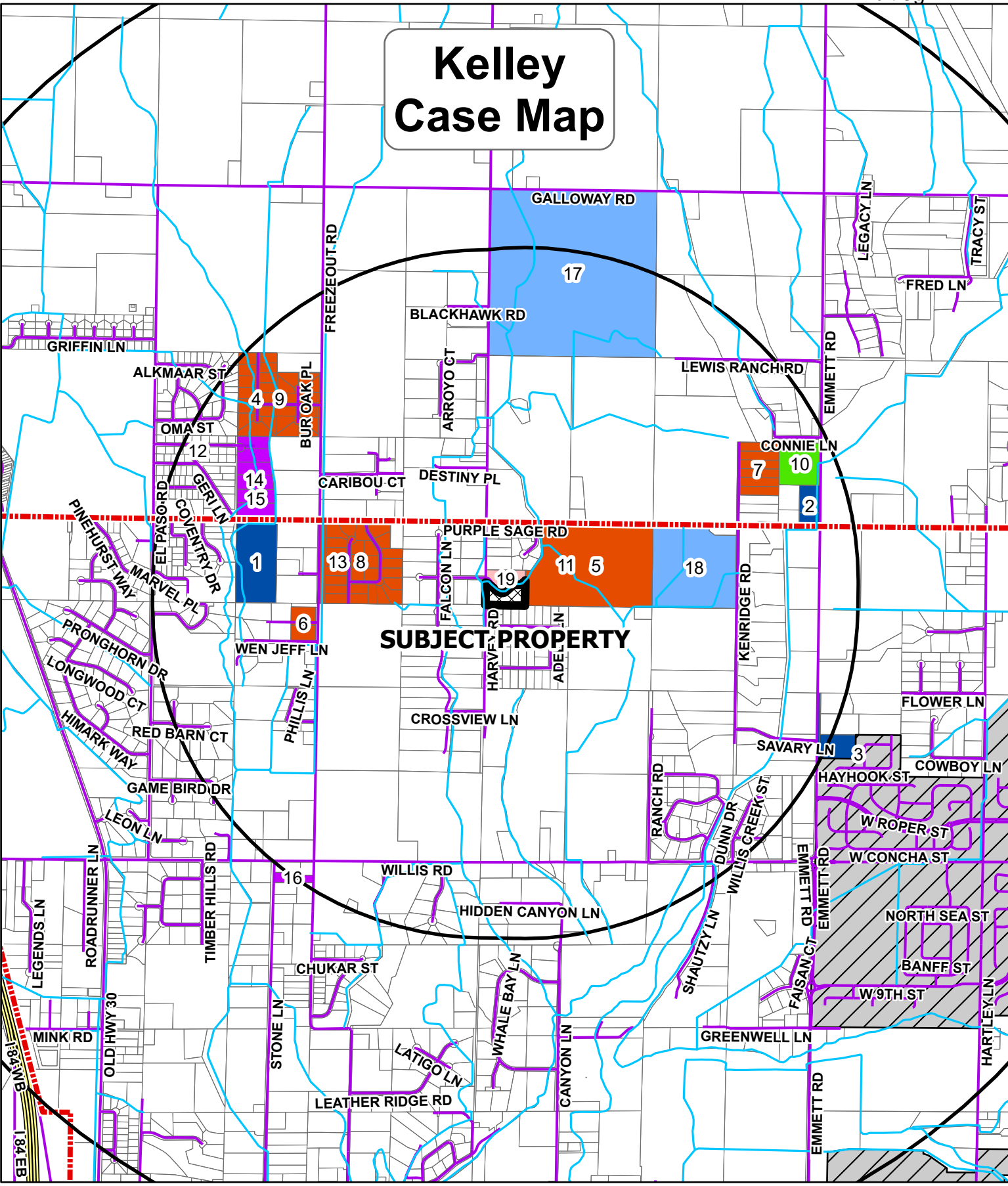
Subject Property



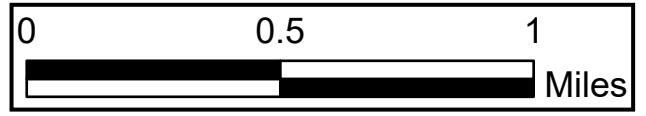
Current Zoning		ITD Functional Classification	
	RR		C1
	CR-RR		CR-C1
	R1		C2
	CR-R1		CR-C2
	R2		M1
	C		CR-M1
			M2
			AG
			Interstate
			Major Collector
			Minor Arterial
			Minor Collector
			Other Principal Arterials



# Kelley Case Map



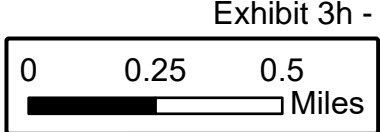
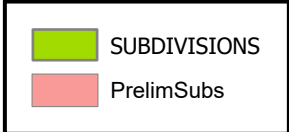
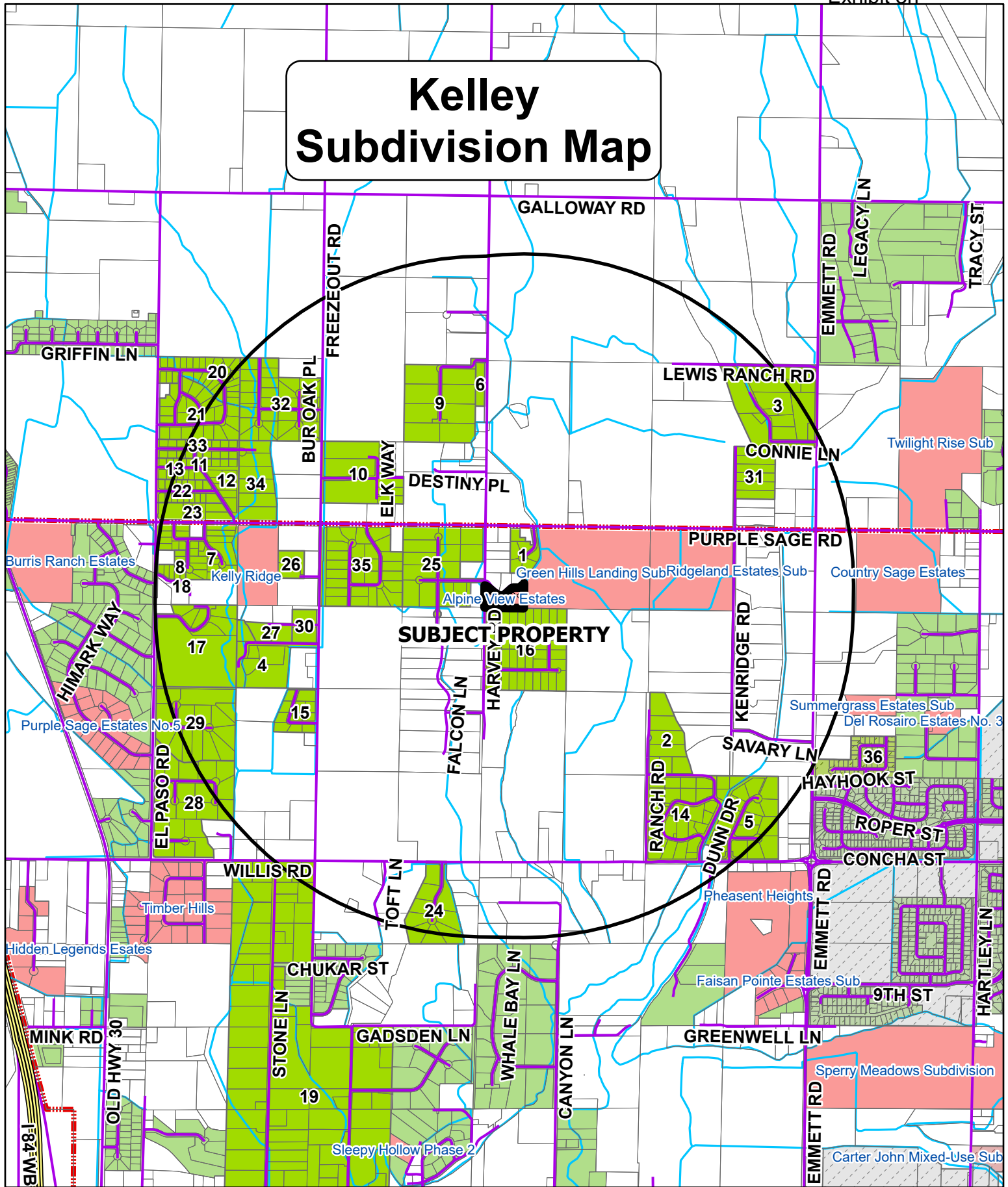
YEAR	
<span style="display:inline-block; width:15px; height:15px; background-color: #f8d7da;"></span> 2023	<span style="display:inline-block; width:15px; height:15px; background-color: #c6e0b4;"></span> 2020
<span style="display:inline-block; width:15px; height:15px; background-color: #d1ecf1;"></span> 2022	<span style="display:inline-block; width:15px; height:15px; background-color: #ffc107;"></span> 2019
<span style="display:inline-block; width:15px; height:15px; background-color: #f39c12;"></span> 2021	<span style="display:inline-block; width:15px; height:15px; background-color: #17a2b8;"></span> 2018



## CASE SUMMARY

ID	CASENUM	REQUEST	CASENAME	FINALDECIS
1	RZ2018-0010	AG to R1	Kelley Bob & Jeanne	APPROVED
2	RZ2018-0012	AG to R1	Eaton Jeremy	APPROVED
3	RZ2018-0014	AG to R1	Hopkins, Samuel	APPROVED
4	RZ2018-0032	Rezone AG to R1	Walker, Jay	APPROVED
5	RZ2018-0021	Rezone AG to CR-R1	Doornbal	APPROVED
6	SD2018-0006	Radford Ridges Sub No 2	Radford Ridges Sub No 2	APPROVED
7	SD2018-0005	Kachupa Ridge Estates	Kachupa Ridge Estates	APPROVED
8	CR2019-0008	Rezone AG to CR-R1	Bowman Ed	APPROVED
9	SD2019-0028	Oak Ridge Estates Subdivision	Oak Ridge Estates Subdivision	APPROVED
10	RZ2019-0042	Rezone AG to CR-R1	Weikel	APPROVED
11	SD2018-0019	Plat - Green Hills Landing Sub	Green Hills Landing Sub	APPROVED
12	RZ2019-0037	Rezone RR to R2	County Clube Waste Association, Inc.	APPROVED
13	SD2020-0010	Preliminary Plat - Sprin Hills Ranch Su	Sprin Hills Ranch Sub	APPROVED
14	RZ2020-0012	Rezone AG to RR	Steadman Land, LLC	APPROVED
15	SD2020-0039	Plat 6 lots	Steady Acres	APPROVED
16	RZ2021-0016	Rezpmc AG to R 1	Guljaro	APPROVED
17	RZ2021-0060	Rezone AG to CR-RR	Middleton Land Investments, LLC	DENIED
18	SD2022-0036	Ridgeland Estates Sub	Ridgeland Estates Sub	APPROVED
19	CR2022-0026	AG to CR-R1	Woodruff	APPROVED

# Kelley Subdivision Map



# SUBDIVISION & LOT REPORT

<b>NUMBER OF SUBS</b>	933.35	<b>NUMBER OF LOTS</b>	576	<b>AVERAGE LOT SIZE</b>	1.62
<b>NUMBER OF SUBS IN PLATTING</b>	119.19	<b>ACRES IN SUB</b>	71	<b>AVERAGE LOT SIZE</b>	1.68
<b>NUMBER OF LOTS NOTIFIED</b>	AVERAGE	MEDIAN	MINIMUM	MAXIMUM	
44	2.65	0.92	0.28	57.40	
<b>NUMBER OF MOBILE HOME PARKS</b>	<b>ACRES IN MHP</b>	<b>NUMBER OF SITES</b>	<b>AVG HOMES PER ACRE</b>	<b>MAXIMUM</b>	

## PLATTED SUBDIVISIONS

SUBDIVISION NAME	Label	LOCATION	ACRES	NO. OF LOTS	AVERAGE LOT SIZE	CITY OF...	Year
VAVOLD HEIGHTS SUB	1	5N3W35	6.53	6	1.09	COUNTY (Canyon)	2006
RANCHO ROAD ESTATES	2	5N3W35	15.21	7	2.17	COUNTY (Canyon)	2003
WARD ESTATES	3	5N3W26	39.86	10	3.99	COUNTY (Canyon)	1973
WEN-JEFF ESTATES	4	5N3W34	16.78	7	2.40	COUNTY (Canyon)	1997
WILLIS CREEK SUBDIVISION	5	5N3W35	28.54	19	1.50	COUNTY (Canyon)	2005
ARROYO VIEW ESTATES #2	6	5N3W27	2.36	2	1.18	COUNTY (Canyon)	2005
FOX RIDGE ESTATES	7	5N3W34	21.64	26	0.83	COUNTY (Canyon)	1992
FOX RIDGE ESTATES #2	8	5N3W34	3.16	9	0.35	COUNTY (Canyon)	1996
ARROYO VIEW ESTATES	9	5N3W27	32.90	9	3.66	COUNTY (Canyon)	2004
CARIBOU ACRES SUB	10	5N3W27	27.35	9	3.04	COUNTY (Canyon)	2002
OF LOT 5, BLOCK 2 OF COUNTRY CLUB	11	5N3W27	0.28	1	0.28	COUNTY (Canyon)	2021
COUNTRY CLUB SUB #2	12	5N3W27	9.48	11	0.86	COUNTY (Canyon)	1975
D&S PURPLE SAGE RANCHETTES	13	5N3W35	5.36	12	0.45	COUNTY (Canyon)	1978
DEE ANN MEADOWS SUB	14	5N3W35	36.47	31	1.18	COUNTY (Canyon)	1972
DRAKE SUB	15	5N3W34	9.71	12	0.81	COUNTY (Canyon)	1974
EL PASO HEIGHTS	16	5N3W35	40.05	41	0.98	COUNTY (Canyon)	1973
FOX RIDGE ESTATES #3	17	5N3W34	37.90	7	5.41	COUNTY (Canyon)	1998
FRUITDALE FARMS	18	5N3W34	0.42	1	0.42	COUNTY (Canyon)	1996
HOLLANDIA EST #1	19	4N3W03	273.92	83	3.30	COUNTY (Canyon)	1911
HOLLANDIA EST #2	20	5N3W27	15.66	28	0.56	COUNTY (Canyon)	1997
MASTERS SUB	21	5N3W27	22.96	23	1.00	COUNTY (Canyon)	2005
NOVAK ACRES	22	5N3W27	8.03	17	0.47	COUNTY (Canyon)	1994
WILLIS ESTATES SUBDIVISION	23	5N3W27	8.38	6	1.40	COUNTY (Canyon)	2001
EAGLES NEST ESTATES	24	4N3W03	19.35	10	1.93	COUNTY (Canyon)	2008
CHAMBERLAIN SUBDIVISION	25	5N3W34	35.62	11	3.24	COUNTY (Canyon)	1998
RADFORD RIDGES SUBDIVISION	26	5N3W34	4.25	2	2.12	COUNTY (Canyon)	2014
ALBION ACRES SUBDIVISION NO. 1	27	5N3W34	4.59	2	2.29	COUNTY (Canyon)	2017
ALBION ACRES SUBDIVISION NO. 2	28	5N3W34	41.10	19	2.16	COUNTY (Canyon)	2018
RADFORD RIDGES NO 2 SUBDIVISION	29	5N3W34	33.13	14	2.37	COUNTY (Canyon)	2018
KACHUPA RIDGE SUBDIVISION	30	5N3W34	4.75	3	1.58	COUNTY (Canyon)	2019
OAKRIDGE ESTATES SUBDIVISION	31	5N3W26	13.91	6	2.32	COUNTY (Canyon)	2019
COUNTRY CLUB SUB #1	32	5N3W27	35.18	30	1.17	COUNTY (Canyon)	2021
STEADY ACRES SUBDIVISION	33	5N3W27	8.64	18	0.48	COUNTY (Canyon)	1964
SPRING HILL RANCHO SUBDIVISION	34	5N3W27	17.05	6	2.84	COUNTY (Canyon)	2022
BRIDGER CREEK SUBDIVISION	35	5N3W34	38.15	28	1.36	COUNTY (Canyon)	2022
	36	5N3W36	14.71	50	0.29	MIDDLETON (City)	2022

## SUBDIVISIONS IN PLATTING

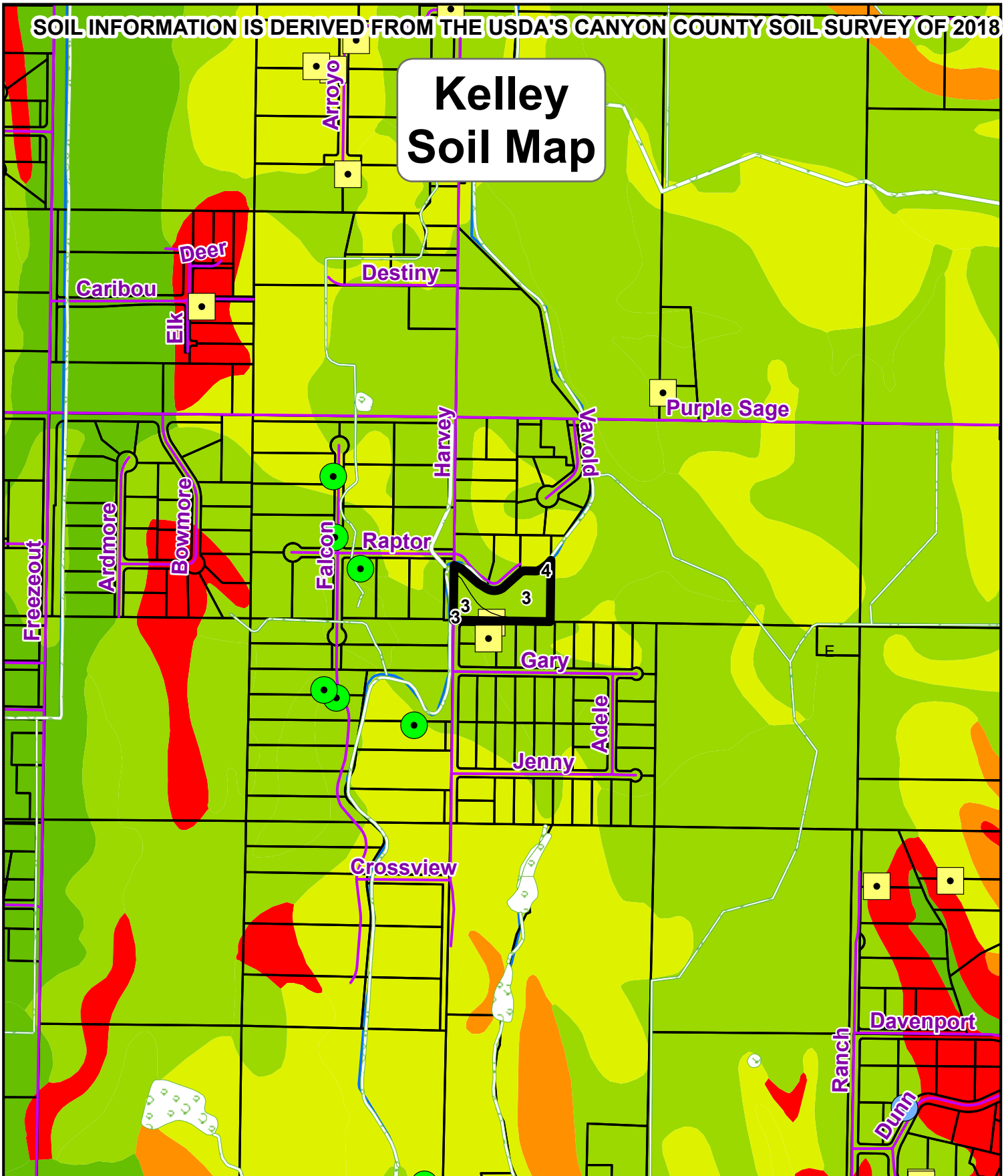
SUBDIVISION NAME	ACRES	NO. OF LOTS	AVERAGE LOT SIZE
Ridgeland Estates Sub	38.64	18	2.15
Kelly Ridge	19.03	9	2.11
Alpine View Estates	4.12	4	1.03
Green Hills Landing Sub	57.40	40	1.44

## MOBILE HOME & RV PARKS





SUBDIVISION NAME \_\_\_\_\_ SITE ADDRESS \_\_\_\_\_ ACRES \_\_\_\_\_ NO. OF SPACES \_\_\_\_\_ UNITS PER ACRE \_\_\_\_\_ CITY OF... \_\_\_\_\_


SOIL INFORMATION IS DERIVED FROM THE USDA'S CANYON COUNTY SOIL SURVEY OF 2018

# Kelley Soil Map

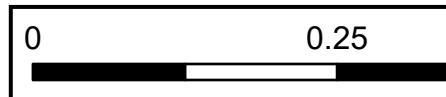
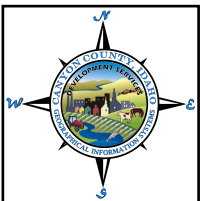


**Nitrate Priority Wells**

-  0.005000 - 2.000000
-  2.000001 - 5.000000
-  5.000001 - 10.000000
-  10.000001 - 49.800000

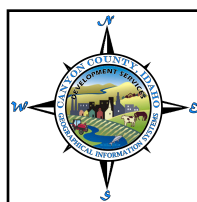
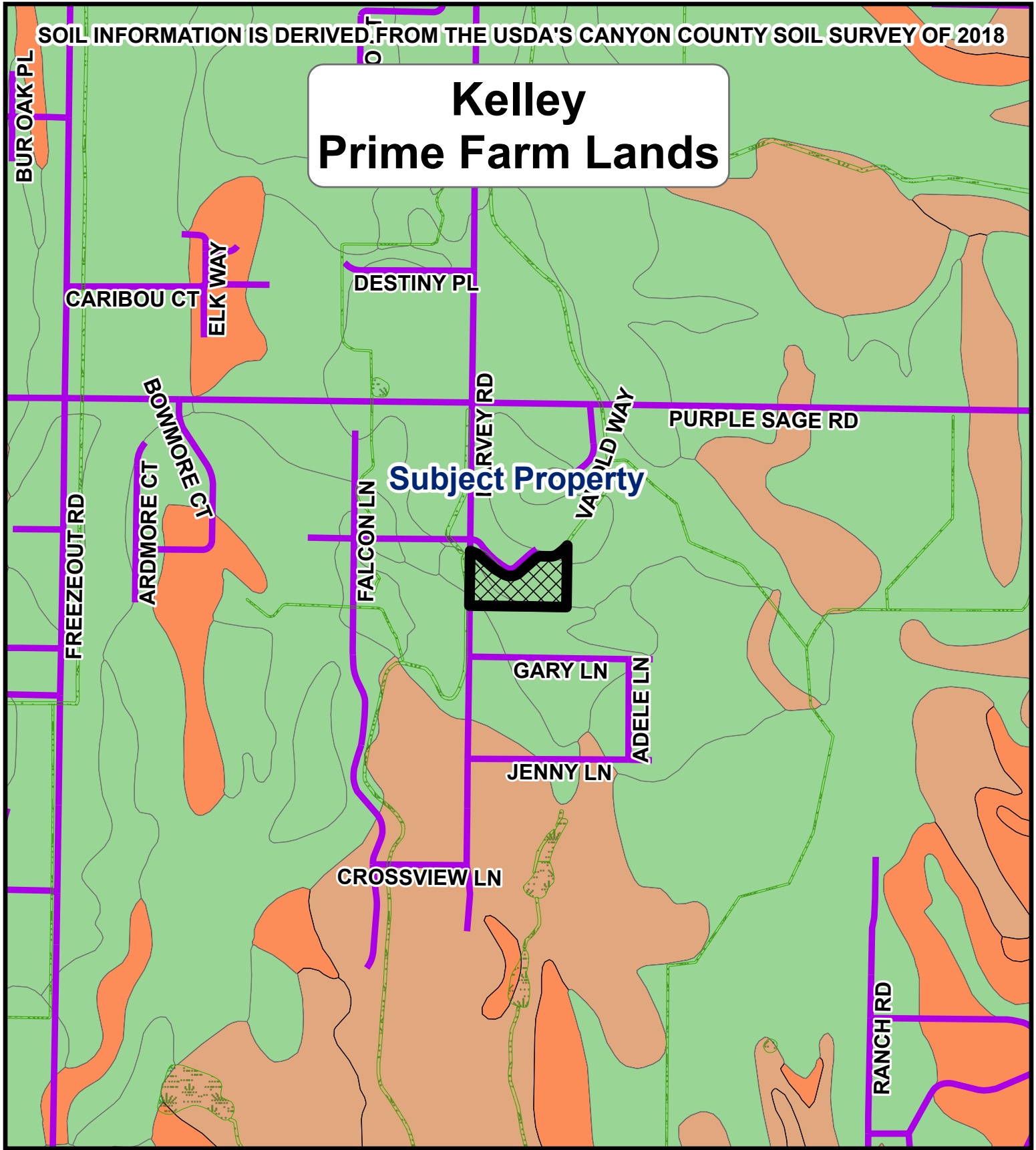
 IDWR\_2C\_Geothermal\_

 Wetlands



SOIL INFORMATION IS DERIVED FROM THE USDA'S CANYON COUNTY SOIL SURVEY OF 2018

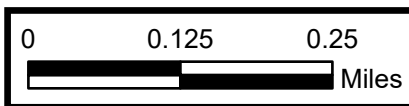
# Kelley Prime Farm Lands



- TAXLOTS
- City Limits
- WETLANDS
- 2C\_Hydro

**FARMLAND**

- Farmland of statewide importance
- Farmland of statewide importance, if irrigated
- Farmland of statewide importance, if irrigated and reclaimed of excess salts and sodium
- Not prime farmland
- Water/Gravel Pit/ Rock outcrop/ Riverwash/ Terrace Escarpments
- Prime farmland if irrigated
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and reclaimed of excess salts and sodium





# SOIL REPORT

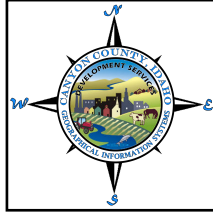
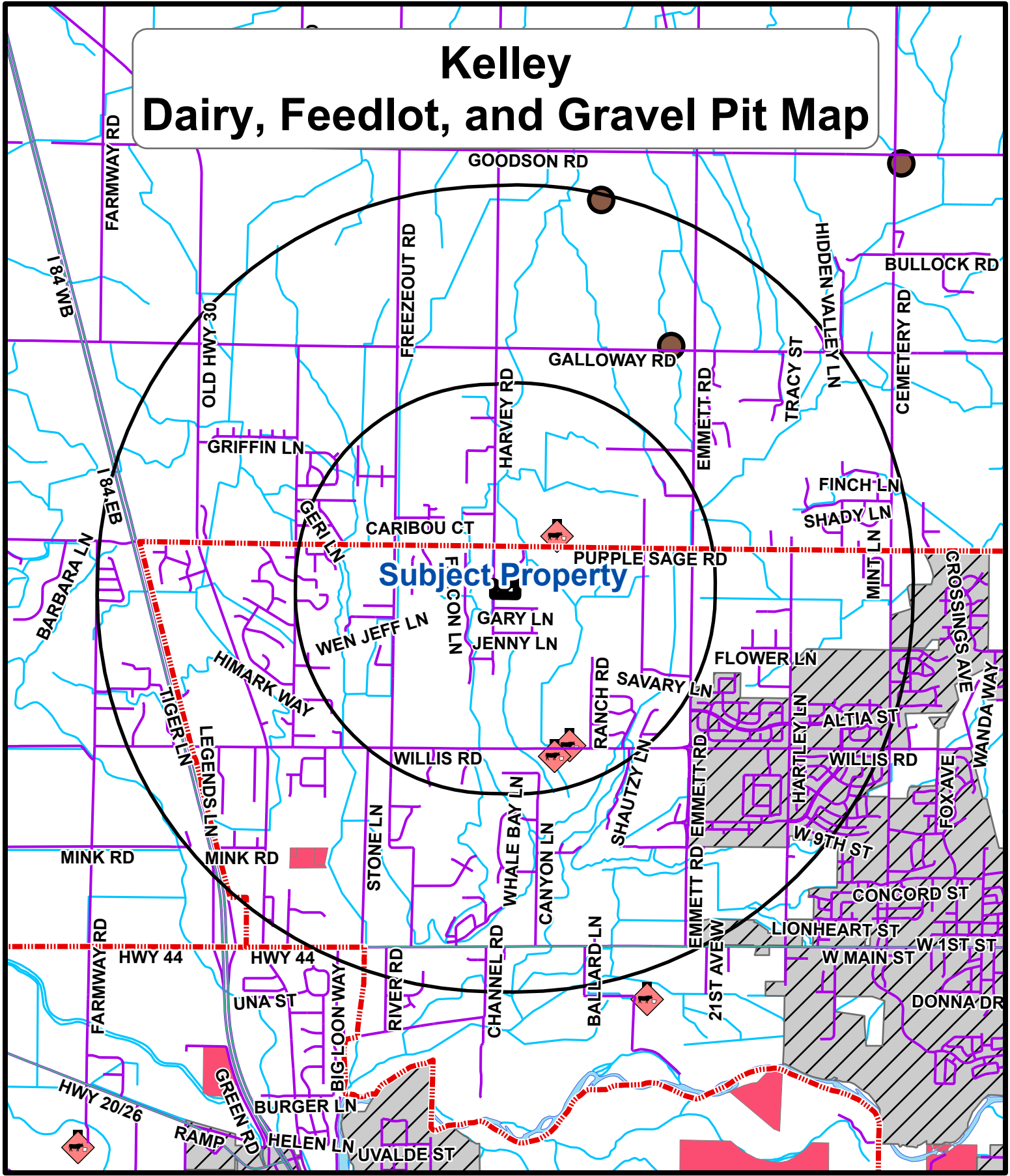
SOIL CAPABILITY CLASS	SOIL CAPABILITY	SQUARE FOOTAGE	ACREAGE	PERCENTAGE
3	MODERATELY SUITED SOIL	2134.44	0.05	1.19%
3	MODERATELY SUITED SOIL	125931.96	2.89	70.17%
3	MODERATELY SUITED SOIL	46652.76	1.07	26.00%
4	MODERATELY SUITED SOIL	4748.04	0.11	2.65%
		179467.20	4.12	100%




# FARMLAND REPORT

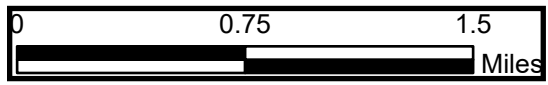
SOIL NAME	FARMLAND TYPE	SQUARE FOOTAGE	ACREAGE	PERCENTAGE
JcC	Prime farmland if irrigated	2134.44	0.05	1.19%
LvB	Prime farmland if irrigated	125931.96	2.89	70.17%
EsB	Prime farmland if irrigated	46652.76	1.07	26.00%
QfD	Prime farmland if irrigated	4748.04	0.11	2.65%
		179467.20	4.12	100%

SOIL INFORMATION IS DERIVED FROM THE USDA'S CANYON COUNTY SOIL SURVEY OF 2018

# Kelley Dairy, Feedlot, and Gravel Pit Map

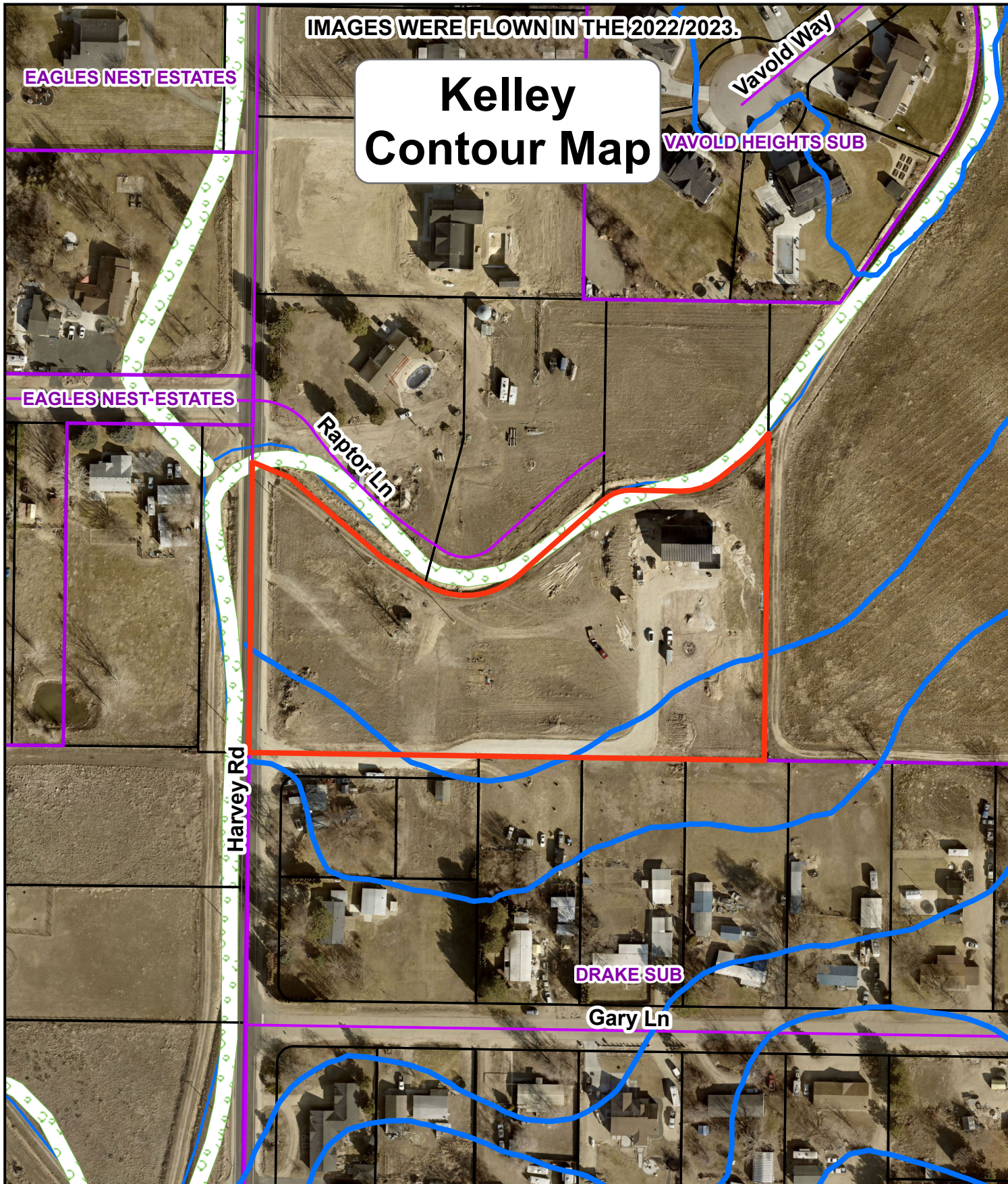


-  FEEDLOTS
-  DAIRIES
-  GRAVELPITS



IMAGES WERE FLOWN IN THE 2022/2023.

# Kelley Contour Map



EAGLES NEST ESTATES

Vavold Way

VAVOLD HEIGHTS SUB

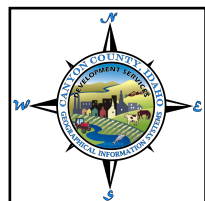
EAGLES NEST-ESTATES

Raptor Ln

Harvey Rd

DRAKE SUB

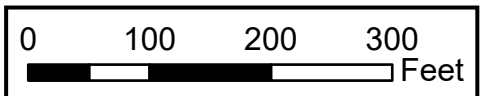
Gary Ln



**Legend**

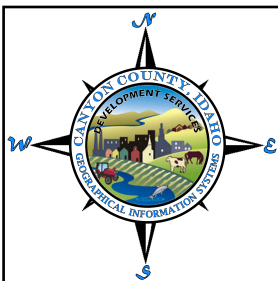
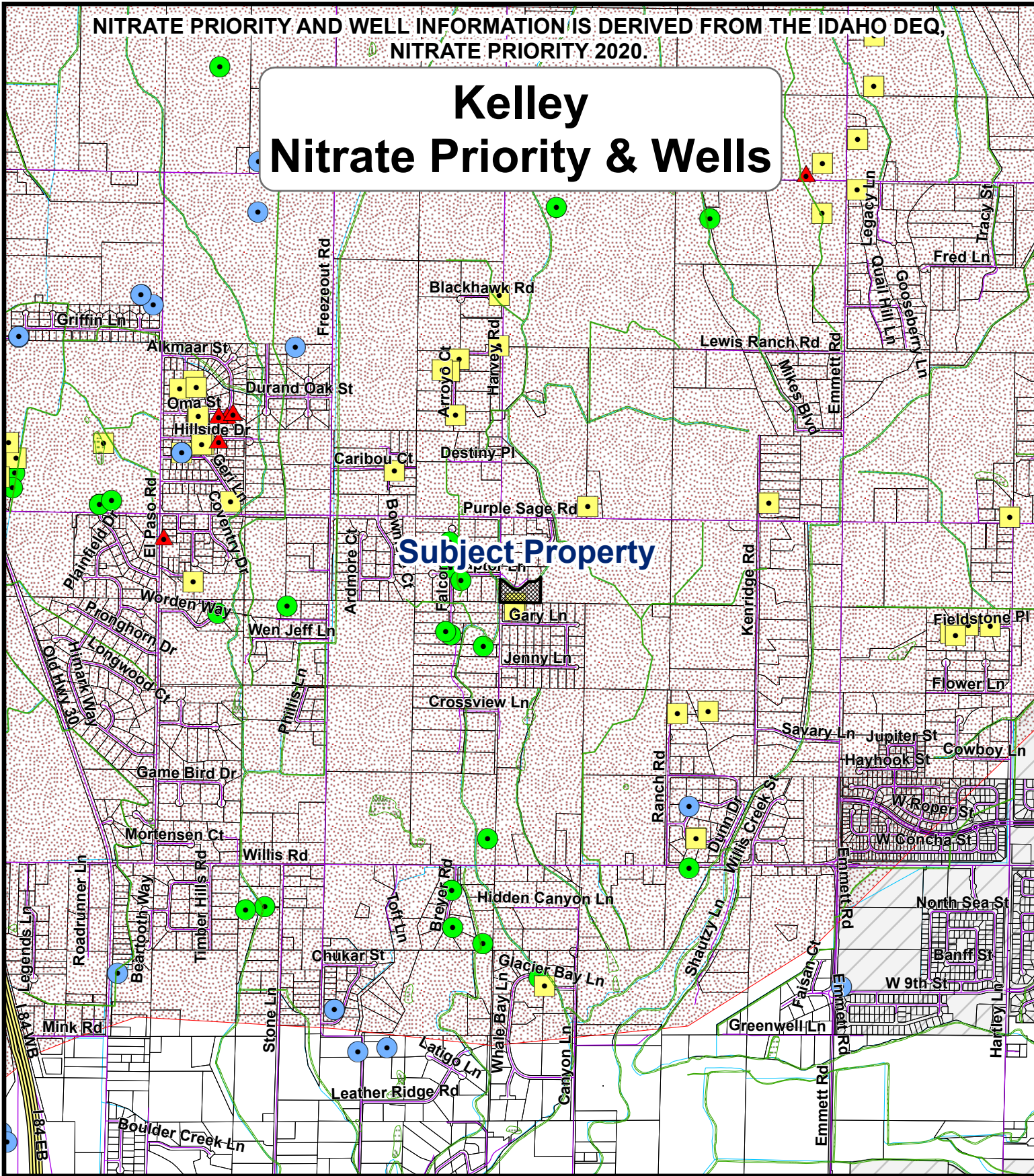
- SUBJECT\_PROPERTY
- TaxParcels
- SectionContours
- Wetlands








IDCANY22-SID-6INCH.sid  
 RGB  
 Red: Band\_1

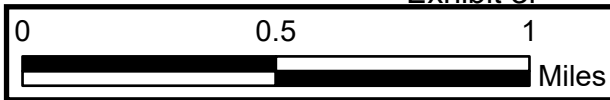


NITRATE PRIORITY AND WELL INFORMATION IS DERIVED FROM THE IDAHO DEQ,  
NITRATE PRIORITY 2020.

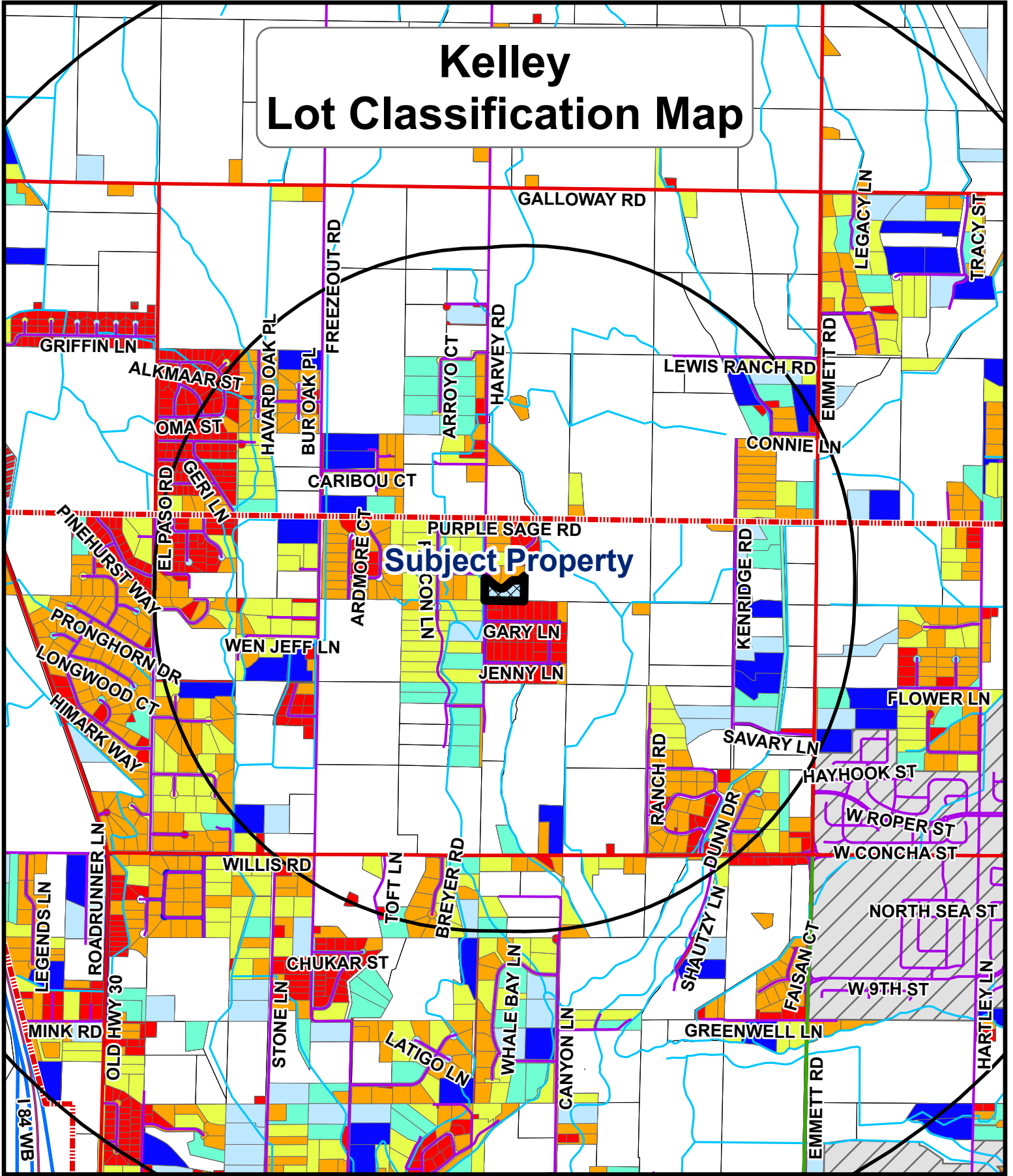
# Kelley Nitrate Priority & Wells



-  GEO-THERMAL LOCATIONS
-  WETLANDS
-  NITRATE\_PRIORITY
-  DEQ WELLS  
N03\_MGL  
0.005 - 2.00
-  2.000001 - 5.00
-  5.000001 - 10.00
-  10.000001 - 49.80



# Kelley Lot Classification Map



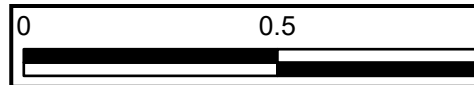
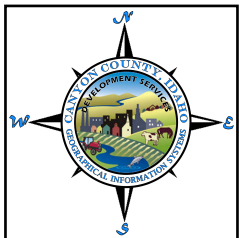
**Subject Property**

**Legend**

0.0 - 1.0
1.1 - 2.0
2.1 - 3.0
3.1 - 4.0
4.1 - 5.0
5.1 - 6.0

**ITD Functional Classification**

Interstate
Minor Arterial
Major Collector
Minor Collector
Other Principal Arterials



10/31/22, 7:38 PM

Gmail - Area of Impact requirements



Rae Lynn Kelley &lt;kelleyr12@gmail.com&gt;

## Area of Impact requirements

2 messages

Rae Lynn Kelley <kelleyr12@gmail.com>  
To: jreynolds@middletoncity.com

Fri, Sep 2, 2022 at 9:09 AM

Good Morning,

My name is Rae Lynn Kelley. My husband Shawn and I are applying to the Canyon County Planning Commission to rezone our property and subdivide it. We are technically a Caldwell address (24720 Harvey Road, Caldwell), but they advised us to contact the City of Middleton since it is in the impact zone. We talked with you briefly on Wednesday and really appreciated your time and expertise. I am following up with an email for the details and record of what Middleton would require from us. My phone number is 208-369-0751 if you have any questions.

Thanks again!  
Rae L Kelley

Jennica Reynolds <jreynolds@middletoncity.com>  
To: Rae Lynn Kelley <kelleyr12@gmail.com>  
Cc: Roberta Stewart <rstewart@middletoncity.com>

Tue, Sep 6, 2022 at 2:45 PM

Mrs. Kelley,

Thank you for your email. Per our conversation I am attaching the "mini preannexation agreement" in which you would carve out a utility corridor for utilities once Middleton City Limits reach your property. If this is something you are interested in the City looks forward to working with you to finalize the agreement.

*Thanks so much,*

*Jennica Reynolds*

City of Middleton

Deputy Clerk, Planning

208-585-3133

[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)



[Quoted text hidden]

 **FORM - Updated Consent to Annex Utility Corridor.pdf**  
155K

**Dan Lister**

---

**From:** Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>  
**Sent:** Tuesday, October 10, 2023 11:21 AM  
**To:** Dan Lister  
**Cc:** Jennifer Almeida  
**Subject:** [External] RE: Agency notification - Shawn Kelly / Case No. CR2022-0033

Good Morning, Dan –

After careful review of the transmittal submitted to ITD on October 2, 2023 regarding Shawn Kelley/ Case No. CR2022-0033, the Department has no comments or concerns to make at this time. This application is proposing 3 lots and is greater than 1.5 miles North of SH-44, therefore ITD believes minimal impact can be anticipated.

Thank you,



Niki Benyakhlef  
*Development Services Coordinator*

**District 3 Development Services**

O: 208.334.8337 | C: 208.296.9750

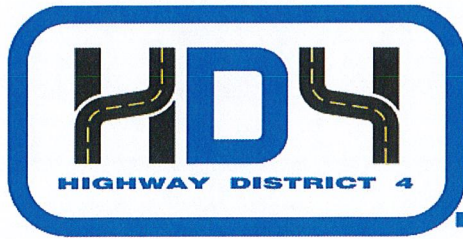
Email: [niki.benyakhlef@itd.idaho.gov](mailto:niki.benyakhlef@itd.idaho.gov)

Website: [itd.idaho.gov](http://itd.idaho.gov)

---

**From:** Jennifer Almeida <Jennifer.Almeida@canyoncounty.id.gov>  
**Sent:** Monday, October 2, 2023 3:36 PM  
**To:** 'lgrooms@msd134.org' <lgrooms@msd134.org>; 'mgee@msd134.org' <mgee@msd134.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; 'anthony.lee@phd3.idaho.gov' <anthony.lee@phd3.idaho.gov>; 'permits@starfirerescue.org' <permits@starfirerescue.org>; 'chopper@canyonhd4.org' <chopper@canyonhd4.org>; 'brandy.walker@centurylink.com' <brandy.walker@centurylink.com>; 'monica.taylor@intgas.com' <monica.taylor@intgas.com>; 'jessica.mansell@intgas.com' <jessica.mansell@intgas.com>; 'easements@idahopower.com' <easements@idahopower.com>; 'mkelly@idahopower.com' <mkelly@idahopower.com>; 'shayne.watterud@ziply.com' <shayne.watterud@ziply.com>; 'developmentreview@blackcanyonirrigation.com' <developmentreview@blackcanyonirrigation.com>; 'irrigation.mm.mi@gmail.com' <irrigation.mm.mi@gmail.com>; 'brentc@brownbuscompany.com' <brentc@brownbuscompany.com>; D3 Development Services <D3Development.Services@itd.idaho.gov>; Brian Crawford <Brian.Crawford@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; Assessor Website <2cAsr@canyoncounty.id.gov>; 'lori.kent@id.nacdnet.net' <lori.kent@id.nacdnet.net>; Devin Krasowski <Devin.Krasowski@canyoncounty.id.gov>; Stephanie Hailey <Stephanie.Hailey@canyoncounty.id.gov>  
**Subject:** Agency notification - Shawn Kelly / Case No. CR2022-0033

**CAUTION:** This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.



October 16, 2023

Canyon County Board of Commissioners and Planning & Zoning Commission  
111 N. 11<sup>th</sup> Street  
Caldwell, Idaho 83605  
Attention: Dan Lister, Planning Director

**RE: CR2023-0033 Conditional Rezone from Agricultural to C-R-1 Residential  
Canyon County Parcel R38194010A aka 24720 Harvey Rd**

Dear Commissioners:

Highway District No. 4 (HD4, formerly known as “Canyon” Highway District No. 4) has reviewed the application for Rezone of the above described parcel R38194010A from Agricultural to C-R-1 Residential and offers the following comments on the proposed use:

**General**

The subject property consists of 1 parcel totaling approximately 4.1 acres, located east of Harvey Rd and south of Purple Sage Rd in the NW ¼ Section 35 T5N R3W. The subject property has approximately 360-feet of frontage on Harvey Rd along the westerly boundary. Existing right-of-way for Harvey Rd is a 25-foot prescriptive right-of-way, measured from the existing road centerline. Ultimate right-of-way for Harvey Rd, a rural collector, is 40-foot half width, measured from the section line.

**Outparcels**

Not applicable to this request.

**Access**

Existing access to the public highway system for the current residential use is via a private driveway approach to Harvey Rd at the southwest corner of the subject property. A portion of this driveway is located within an open public right-of-way created by plat of Drake Subdivision.

Access for the proposed 2 additional residential lots should be planned to utilize the existing driveway approach to Harvey Rd as shown on the application. An access permit from HD4 is required for all new residential construction.

**Preliminary Plat**

The preliminary plat proposed for the two additional residential lots should include the following:

1. Dedicate a 40-foot half-width right-of-way for Harvey Rd along the westerly boundary.
2. Remove all existing irrigation facilities, trees, fences from the right-of-way.
3. Provide a paved driveway approach meeting ACCHD Standard Drawing 106 for the private road intended to serve the 3 residential lots.



A preliminary plat application should be made to HD4 along with any such application to Canyon County to allow for simultaneous review.

**Transportation Impacts:**

The proposed 2 new residential lots are not anticipated to exceed the 500 trips/day threshold which would require a traffic impact study, nor to generate sufficient new traffic to significantly impact the existing or planned transportation network. Traffic impacts from the development will be mitigated by dedication of public right-of-way, public road improvements, traffic impact fees, or a combination of these requirements.

**Section Line Setbacks**

The subject property is subject to a section line setback per Canyon County Code 07-19-10 along the westerly boundary (Harvey Rd).

CHD4 does not oppose the requested zoning changes, but requests the Commission make these comments conditions of any approved land use action.

Please feel free to contact me with any questions on this matter.

Respectfully,



Chris Hopper, P.E.  
District Engineer

File: Harvey Rd- CR2022-0033 Kelley Rezone

# CANYON SOIL CONSERVATION DISTRICT

Exhibit 4d



2208 E. Chicago, Suite A  
Caldwell, ID 83605  
Phone 208-779-3443  
Fax 1-877-504-6752

SUPERVISORS: Mike Swartz, Chairman; Rex Runkle, Vice Chairman; Robert McKellip, Secretary/Treasurer;  
Chris Gross, Supervisor, Brad McIntyre, Supervisor & Clay Erskine, Supervisor  
ASSOCIATE SUPERVISORS: Tom Johnston, Rich Sims & Matt Livengood

SOIL CONSERVATION DISTRICT STAFF: Lori Kent; Administrative Assistant & Stan Hays, Soil Conservation Technician

October 17, 2023

To: Dan Lister Planner of Record  
Canyon County Development Services

From: Canyon Soil Conservation District (Canyon SCD)

Subject: P & Z Agency Notices

Thank you for sending Canyon Soil Conservation District (SCD) several zoning requests.

They are: CU2023-0008, Quadrant Consulting, CU2023-0014 Penelope Constantikes, CU2022-0036 AK Feeders LLC and CR2022-003 Shawn and Rae Lynn Kelly

Comments from Canyon Soil Conservation District:

The acreage amounts on the maps are an estimate. Percentages of soils are rounded to a whole number.

CU2023-0008, Quadrant Consulting is 23% Class III, 74% Class IV and 3% other. The SCD has no comments.

CU2023-0014 Penelope Constantikes. The SCD has no comments.

CU2022-0036 AK Feeders LLC is 4% Class II, 21% Class III and 75% Class IV. The SCD has no comments related to the Land Class. There is one item we think should be addressed. In the application the applicant stated they have an active nutrient management plan. If the applicant plans to increase the population of cattle, a new nutrient management plan is needed to address the additional animal waste.

CR2022-003 Shawn and Rae Lynn Kelly. The SCD has no comments.

Continued Partnership and Conservation.

Sincerely,

*Rich Sims acting for:*  
Mike Swartz, Canyon SCD Chairman

All programs and services of the Canyon Soil Conservation District are offered on a nondiscriminatory basis without regard to race, color, national origin, religion, sex, age, disability, marital or familial status, and political beliefs.

Exhibit 4d

## BLACK CANYON IRRIGATION DISTRICT

NOTUS, IDAHO

December 1, 2023

Canyon County Development Services Department  
111 North 11<sup>th</sup> Ave. Suite 310  
Caldwell, ID 83605  
(208) 454-7458

RE: Conditional Rezone. Parcel R38194010A - **UPDATE**  
Case No.: CR2022-0033  
Applicant: Shawn & Rae Lynn Kelley  
Planner: Dan Lister

The parcel is located at 24720 Harvey Road, Caldwell, Canyon County, Idaho.

The Black Canyon Irrigation District (District) is requesting that Canyon County require the proponent to clarify/answer the following initial comments regarding this proposed land use change prior to approving the change. Significant infrastructure affecting multiple land-owners could be affected by approving this change without receiving clarification on the below listed items.

The District spoke with the applicant on November 17, 2023 and November 30, 2023, to discuss items listed in the agency response letter submitted to the County on October 30, 2023. Additional comments based on the correspondence with the applicant are shown in red below.

Pre-Application (Prior to concurrence approval of conditional rezone)

1. Please fill out and submit a Development Intake Sheet form found on our website (<https://blackcanyonirrigation.com/development>). It is recommended that the proponent apply to the District using this form for their proposed project to help identify any additional project requirements. The proponent has not contacted the District with this application to date.

11.30.2023 – A parcel split fee (which is processed through the form listed above) is required to be paid for the creation of each new lot. *Request still outstanding.*

2. Records show that this property receives surface water from the adjacent Drake subdivision. The proponent will need to address their plan for delivering existing surface water to the property. Specifically, it will need to be clarified what arrangements (if any) have been made and how the irrigation water will be accounted for in the proposed re-zoned property. This is in direct contrast to what is presented on the Land Use Worksheet (Item #3) and the Irrigation Plan application (Page 2, Item 2 and Item 6). Please clarify.

11.30.2023 - The District has suggested to the applicant to speak with the Drake Subdivision HOA regarding irrigation assessment billing for this conditional rezone and parcel split. This property does have irrigation water from the District (different from that stated in the application). The property has been historically receiving this water from the Drake Subdivision. The Drake Subdivision HOA has been historically paying the assessment for the proponent's irrigation water. The District will need concurrence from the property owner and Drake subdivision if they wish to continue to be included in the Drake Subdivision irrigation system. The District will default to assessing each new property created, individually billing each of these three parcels if no further resolution is reached prior to approval of this Conditional Rezone application. The applicant is encouraged to coordinate with the Drake Subdivision HOA.

3. District records show an irrigation lateral C.E. 10.2-5.1 is installed across the center of this parcel (north to south) that feeds the Drake subdivision located due south of the proposed proponent's property. This

# BLACK CANYON IRRIGATION DISTRICT

NOTUS, IDAHO

lateral needs to be shown on the plans and addressed by either an easement or other legal means. See map below.

11.30.2023 - The pipeline shown running North and South across the property is downstream of the District's weir. This pipeline is not a District facility, it is a private facility. It is recommended that this pipeline be properly addressed on any documented survey or preliminary plat. *No further action from the District is required on this item.*



- The proponent's grading plan shows private irrigation being fed from the North, across the canal from an existing well. The proponent needs to clarify how this is intended to be applied in conjunction with receiving surface irrigation? Are there arrangements to move surface irrigation water from the parcel?

11.30.2023 – The proponent has been requested to add/revise note to the development agreement, site survey or preliminary plat document that states, “Groundwater irrigation is available, however prior to being able to receive this groundwater, irrigation infrastructure needs to be installed across the Black Canyon Irrigation District's lateral. A license agreement is required to cross and/or work within the District's easement. Crossing infrastructure currently does not exist.” *Once this note is provided, this comment will be satisfied.*

- The grading plan sheet shows a private irrigation line crossing the District's canal. Any crossing agreement(s) and/or piping agreement(s) will need to be acquired from the Bureau of Reclamation (Reclamation), once approved by the District, to cross over or under any existing lateral, pipe any lateral or encroach in any way the right-of ways of the District or Reclamation.

11.30.2023 – See response to Item #4 above. The proponent has been asked to add a note to the development agreement, formal site survey, or preliminary plat document to provide clarity to any potential future owner. *Once this note is provided, this comment will be satisfied.*

- The District will require that the laterals affected by this proposed land change be piped and structures built to ensure the delivery of irrigation water to our patrons. This parcel is located directly adjacent to the section of C.E. 10.2 canal which will need to be piped. The piped canal must meet minimum requirements outlined in the District's standards found on the website (<https://blackcanyonirrigation.com/development>). The District and Reclamation may require additional modifications to ensure irrigation water is made available to patrons as this proposed project proceeds.

11.30.2023 – The District has waived their requirement to pipe the existing canal for this application. *No further action required.*

- Fencing will be required along the lateral per District's standards.

11.30.2023 – The District recommends installing fencing along the lateral. *No further action required.*

# BLACK CANYON IRRIGATION DISTRICT

NOTUS, IDAHO

8. The grading plan sheet shows private irrigation lines in the District's right-of-way which need to be relocated. No outside utilities or other structures are allowed within District's right-of-way.  
*11.30.2023 – Request still outstanding.*
9. Any and all maintenance road right-of ways, lateral right-of ways and drainage right-of ways will need to be protected (including the restriction of all encroachments). There is a District's maintenance road that runs along the south side of the canal which will need to remain in place and accessible.  
*11.30.2023 - No action required, notification for proponents understanding only.*

General Comments:

1. A standalone, recorded easement(s) will be required for any irrigation lateral that is located within the property boundary. The District's lateral along this parcel has a prescriptive easement which needs to be recorded. The Developer will be required to provide the easement description and exhibit signed by a professional surveyor licensed in the state of Idaho. The District will provide the easement language once the description and the exhibit have been provided.
2. Construction runoff and drainage from the proposed land should be addressed as it shall not enter the lateral or District's right of way.
3. Please ensure that separation distances between any proposed wells, septic drain fields, and the District's irrigation canal meet minimum IDAPA requirements.

All of the above requirements need to be met, including any others that arise during future review.

Thank You,

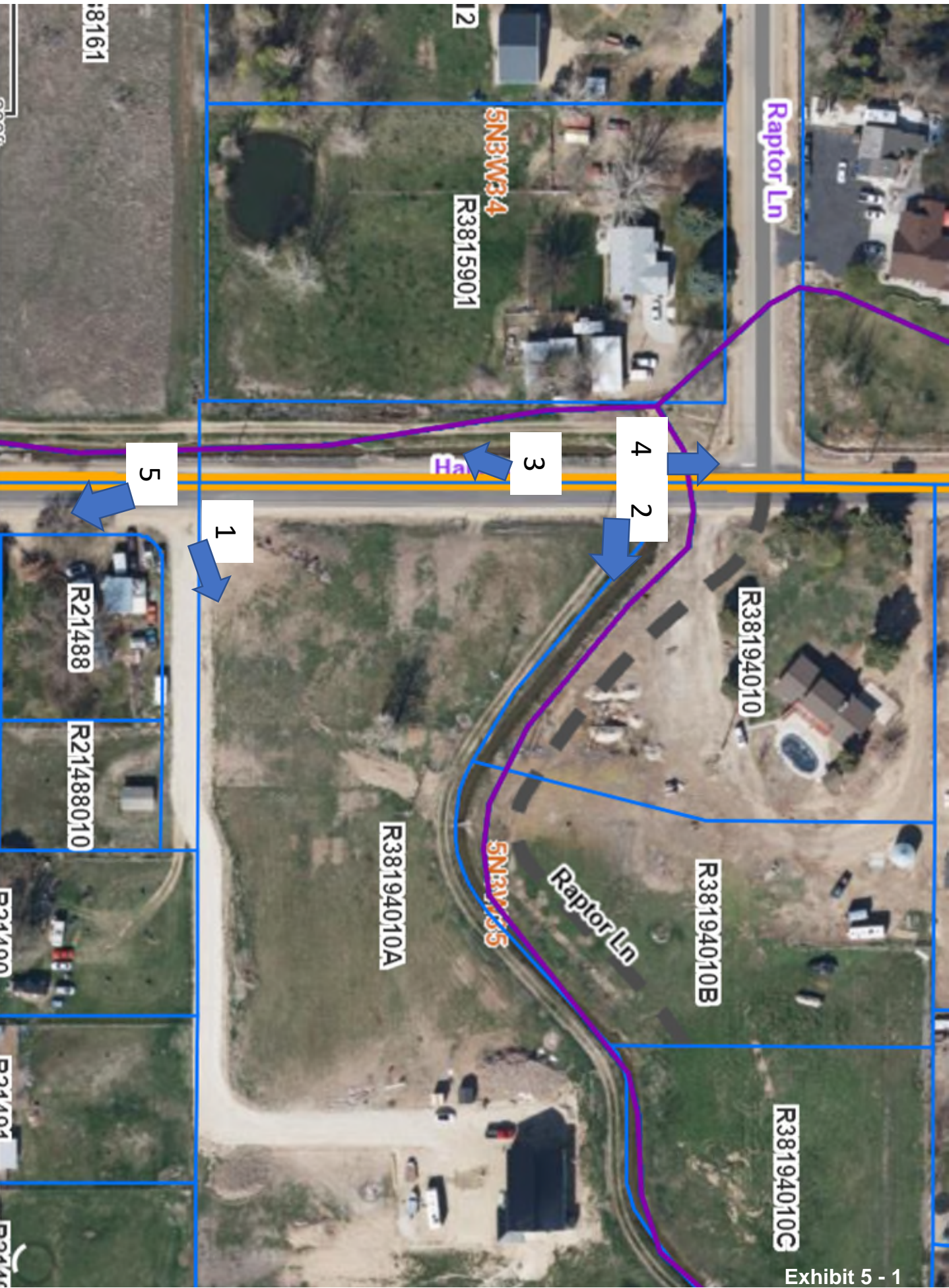
*Donald Popoff*

Donald Popoff P.E.  
District Engineer  
Black Canyon Irrigation District

CC: Shawn & Rae Lynn Kelley (Skellet@gmail.com)

Google Earth Site Visit  
CR2022-0033

Street View – 10/2023



Bp2022-0572 (Ex. 6 Staff Report)



Looking east from Harvey Road along the west boundary line of the subject parcel. The unpaved access is the 25' open right-of-way that connects to the property.

Bp2022-0572 (Ex. 6 Staff Report)



Looking east from Harvey Road along the northwest corner of the subject parcel. Access appears to be for irrigation canal maintenance along the CE 10.2-5.1 Lateral.





Looking south on Harvey Road along the west boundary of the subject parcel. West of Harvey Road, the view shows two 2-acre parcels and a 4 acre parcel.



Looking north on Harvey Road near the northwest corner of the subject parcel. East of Harvey Road, a paved approach is shown into Parcels R38194010, 010B & 010C. West of Harvey Road is Raptor Lane entering into Eagle Nest Estates Subdivision.



Looking southeast from Harvey Road near the southwest corner of the subject parcel. The view shows the existing dwellings and Gary Lane, part of Drake Sub.



# Certificate of Zoning Compliance / Permit

## Development Services Department

111 North 11th Ave., Suite 310

Caldwell, ID 83605

Office: (208) 454-7458

For Inspections Call: (208) 454-7460

Fax: (208) 454-6633

www.canyoncounty.id.gov/dsd

**Parcel Number: 38194010A0**

**Permit Number: BP2022-0572**

Township: 5N Parcel Acreage: 4.12 Range: 3W County Zone: A Section: 35 City Impact Area: Middleton, Quarter: NW Subdivision: Lot: Block:	<b>Permit Is For: SFR w/Attached Garage</b> Square Footage: 2400 <hr/> Site Address: 24720 HARVEY RD Caldwell ID 83607 Secondary Residence Address:
Sec Line: 1/4 Sec: County Set Backs: Yes City Set Backs: No Front: 30 Sctn Line: Yes Front: Rear: 20 Rear: Side: 10 Side:	Project Flood Zone: Zone X – Outside SFHA, Parcel Flood Zone: Zone X – Outside SFHA, Hwy Dist: Canyon Highway No 4, Fire Dist: Middleton Fire, School Dist: Middleton School No 134,
Original Parcel: No	Land Use Case #: AD2022-0003

**Owner:**

KELLEY SHAWN  
 13259 LOCUST LN  
 NAMPA ID 83686

**Applicant:**

KELLEY SHAWN  
 1528 KATHY ST  
 EMMETT ID 83617

**Contractor:**

KELLEY SHAWN  
 1528 KATHY ST  
 EMMETT ID 83617

OWNER

Required Documentation	Date Received	Initials	Required Documentation	Date Received	Initials
			Ad Valorem		
<input checked="" type="checkbox"/> Building / Site Plans (2)	05/24/2022	JO	PRE-76 Rehab Certificate		
Engineering			MH Temp Res Permit		
Res Check			Road Frontage		
Prescriptive			Easement		
Manual J S D & E			RUMA		
<input checked="" type="checkbox"/> SWDH Septic Permit	05/24/2022	JO	Development Permit (Flood)		
<input checked="" type="checkbox"/> Hwy Dist/ITD Access Permit	05/24/2022	JO	Elevation Certificate		
<input checked="" type="checkbox"/> Fire District Permit	05/24/2022	JO	<input checked="" type="checkbox"/> Property Research	05/26/2022	CL
Waiver			Address from City		CL
			<input checked="" type="checkbox"/> Address	05/26/2022	CL

**Description:** New SFR w/ attached garage (Shop with living quarters)

**Application Processed By:**

**Filing Date:** 05/23/2022

**Status:** Active

BP2022-0572

Page 1 of 2

**Standard Zoning / Building Condition(s)**

- Address numbers must be illuminated or reflective and displayed on the residence, at the driveway entrance and at the approach to the public road.
- Approved set of plans must be on-site for inspector or inspection will fail and a possible \$50 fee will be charged for a re-inspection.
- Driveway to be constructed prior to final inspection.
- Final fire district approval of the required turn around, and certification that the road has been constructed to County private road/driveway standards, must be received by DSD prior to a final building inspection.
- Final SWDH Permit required in office or verified by inspector before final.
- Property owner is responsible for identification of all property boundaries to measure setbacks from. Property owners shall not build any structure on/in an easement and it shall be the owner's responsibility to locate those easements. Structures must be at least seventy (70) feet from a section line or quarter-section line, unless approved otherwise by the highway district having jurisdiction. Front Setbacks shall be measured from either the front property line, road right of way line, or road easement line, whichever is greatest.

**Fees**

Date	Fee Item	Amount
05/23/2022	Certificate of Zoning Compliance (Over the Counter) - ZCB	\$70.00
05/23/2022	Deposit for Plan Check	\$180.00
05/26/2022	Middleton Rural Fire District Impact Fee - Residential - Per Dwelling	\$849.00
06/23/2022	Residential Permit Fee - Varies	\$857.62
		<b>\$1,956.62</b>

**Receipts**

Date	Receipt Number	Amount
05/23/2022	74508	\$250.00
	<b>Total Paid:</b>	<b>\$250.00</b>

**This is not a Building Permit.**

For Building Permit applications, this "Certificate of Zoning Compliance" shall expire if not complete within sixty (60) calendar days from the date of filing. One extension may be requested in writing and approved by the Zoning Administrator. Please pick-up your Building Permit when it is ready during office hours of 8:00 a.m. to 4:00 p.m. Monday - Friday.

Your signature acknowledges that any nuisance complaints regarding agricultural activity may be limited by the Idaho "Right to Farm" laws.

Your signature also acknowledges that you have read, understand and agree to comply with all the conditions listed above.

I affirm that all information provided by me for the completion of this certificate is correct to the best of my knowledge.

Applicant's Signature: \_\_\_\_\_

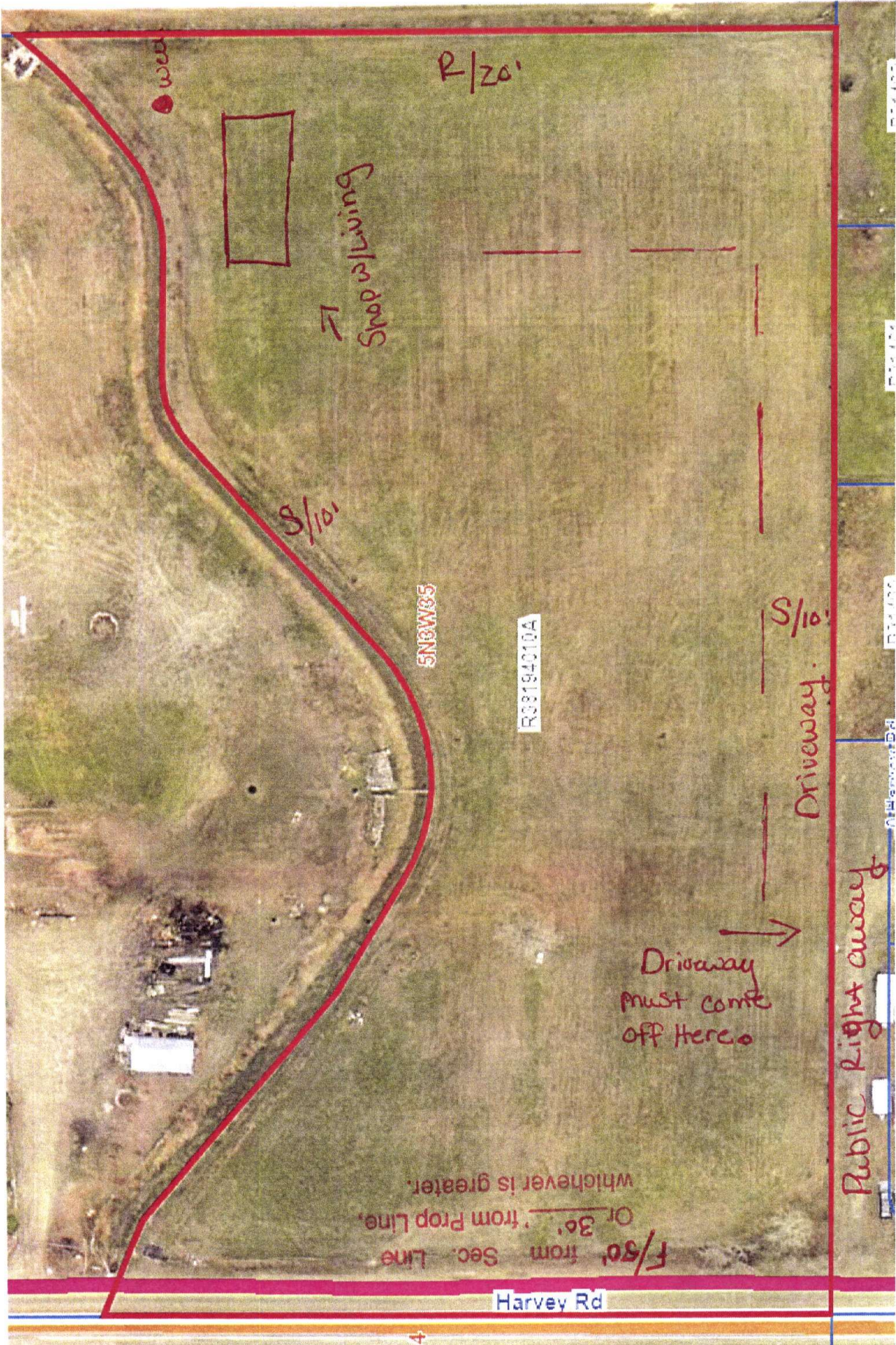
Date: \_\_\_\_\_

DSD Staff Accepting Application: John A. Edson

Date: July 7, 2022

DSD Flood Plain Administrator: \_\_\_\_\_

Date: \_\_\_\_\_



R/20

Shop w/ Living

S/10

S/10

Driveway

Public Right of Way

R03194010A

Harvey Rd

F/50' from Sec. Line  
Or 30' from Prop Line,  
whichever is greater.

well

Driveway  
must come  
off here

# New Individual Sewage Permit

# Subsurface Sewage Disposal



Southwest District Health

13307 Miami Ln  
Caldwell ID 83607  
United States

Permit #: # 011278  
Date: 04/16/2022  
Parcel #: 38194010A0

Applicants Name: Shawn Kelley  
Land Owner Name: Shawn Kelley  
Property Address: TBD 0 HARVEY ROAD  
CALDWELL ID 83607

**Legal Description** **Township:** 5N **Range:** 3W **Section:** 35

**Subdivision:** **Lot:** **Block:** **Size (acres):** 4.12

<b>Type of Installation:</b> Individual System Permit - New <b>Basic</b>	<b>Type of System:</b> Intrench Sand Filter <b>Additional System Type:</b> Gravel Drainfield <b>Optional System Type:</b>	<b>Water Supply:</b> Private	<b>Water Source:</b> Well
--	---	---------------------------------	------------------------------

### Conditions of Approval

- Over-excavate to 60" and backfill with 12" of approved ASTM C-33 sand to reach A-2b receiving soils. Install system at 48" to bottom of trench. (Two) 6 feet wide by 45 feet long trenches or equivalent. The 1-bedroom shop and 3-bedroom house will be connected to a centralized drainfield. The 1-bedroom in the shop will be converted into an office upon the construction of the 3-bedroom house as per discussion with client. Minimum 6" drain rock under the pipe from an approved gravel pit. Minimum 2" drain rock over the pipe. Geo-textile material, untreated building paper, or 3" of straw used as an acceptable soil barrier. Drainfield must be a minimum of 50 feet from irrigation canal/ditch. Drainfield must be a minimum of 10 feet from house/shop foundation. Septic tank must be minimum of 5 feet from house/shop foundation.
- Install no deeper than 48 inches.
- If soil conditions differ from test hole when installing tank/drainfield, contact SWDH before installation.
- Call SWDH for trench inspection before gravel or sand is placed into the trench(s).
- Confirm all surrounding well locations.
- Changes to structure floorplans must be submitted to SWDH prior to septic installation.
- Modifications to an approved plot plan must be submitted prior to septic system installation.
- If Lift Station/Pump is needed Complex Installer is required.
- Effluent flows must be equalized with use of distribution box or "Hard-T"
- Follow install per approved proposed plot plan

**Unless otherwise stated within this permit, all requirements of IDAPA 58.01.03 shall be met upon system installation.**

Number of Bedrooms:	3+1 Bedroom(s) + Shop
Design Flow:	400 Gallons Per Day
Soil Type (USDA)/ Loading Rate (Gal/ Sq. Ft./ Day):	A-2b / 0.75 Adjusted Loading Rate:
The minimum septic tank capacity is:	1000 Gallons
The minimum effective drainfield absorption area is:	533 Square Feet
The drainfield can be no closer to permanent/ intermittent surface water than:	300 Feet

**Note: Final approval of this permit requires inspection of the uncovered system.**

All plans, specifications, and conditions contained in the approved permit application are hereby incorporated into, and are

enforceable as part of the permit. The permit will expire (2) years from date of issuance. The permit may be renewed if the renewal is applied for on or before the expiration date.

Permit Approved By:

Anthony Lee

Digitally signed by Anthony  
Lee  
Date: 2022.04.16 12:38:04  
06'00

Anthony Lee

04/16/2022

Permit Issue Date:

**PERMIT EXPIRES TWO YEARS FROM DATE OF ISSUE**



Received 4/12/22

### APPLICATION AND PERMIT TO USE RIGHT-OF-WAY -- APPROACHES

COPY OF PERMIT MUST BE PRESENT AT WORK SITE DURING CONSTRUCTION

ISSUE DATE: 4/18/22  
PERMIT VOID AFTER 12 MONTHS FROM DATE ISSUED, UNLESS OTHERWISE SPECIFIED.

**NOTICE**  
This permit shall not be valid for construction until, or unless, the provisions of Idaho Code Title 55, Chapter 22 have been complied with.  
**PRIOR TO EXCAVATION, CALL DIGLINE**  
**1 (800) 342-1585**

PUBLIC ROAD TYPE:  
GRAVEL  PAVEMENT  OTHER   
ARTERIAL  COLLECTOR  LOCAL

ROAD NAME: HARVEY ROAD ROAD #: \_\_\_\_\_

LOCATION: R 38194010 A

TYPE: RESIDENCE  COMMERCIAL  FIELD  OTHER

QUANTITY: \_\_\_\_\_ WIDTH: 20' min SURFACE TYPE: \_\_\_\_\_

CULVERT: NOT REQUIRED  REQUIRED  (SIZE: 12" LENGTH: 32')

AVAILABLE SIGHT DISTANCE: \_\_\_\_\_ (West ) \_\_\_\_\_ (West ) POSTED SPEED \_\_\_\_\_

CONSTRUCTION REQUIREMENTS (attached):  SD-105 (Resid.)  SD-106 (Comm.)  SD-110 (RW)  
SPECIAL PROVISIONS:

*Per Administrative land division (attached) no new driveway is available. Utilize 28' open public right of way along south property line.*

SEE REVERSE SIDE FOR GENERAL PROVISIONS.

I CERTIFY THAT I AM THE OWNER OR AUTHORIZED REPRESENTATIVE OF THE PROPOSED PROPERTY TO BE SERVED AND AGREE TO DO THE WORK REQUESTED HEREON IN ACCORDANCE WITH THE GENERAL PROVISIONS PRINTED ON THE REVERSE SIDE, THE SPECIAL PROVISIONS AND THE PLANS MADE A PART OF THIS PERMIT.

SHAWN KELLEY  
APPLICANT - PLEASE TYPE OR PRINT

1528 KATHY ST.  
MAILING ADDRESS (for refund of performance assurance fee)

208-697-8306  
PHONE

EMMETT IDA. 83617  
CITY, STATE, & ZIP

Shawn Kelley  
SIGNATURE AND DATE (BY OWNER OR AUTHORIZED REPRESENTATIVE)

SKELLEY@GMAIL.COM  
EMAIL OR OTHER CONTACT (Optional)

SUBJECT TO ALL TERMS, CONDITIONS, AND PROVISIONS SHOWN ON THIS FORM OR ATTACHMENTS. PERMISSION IS HEREBY GRANTED TO THE ABOVE NAMED APPLICANT TO PERFORM THE WORK DESCRIBED ABOVE.

#### CANYON HIGHWAY DISTRICT NO. 4 Office Use

ISSUED BY: Kathleen Leonard  
TITLE: Permit Technician  
DATE: 4/18/22

FEE: \$ 100.00 (NON-REFUNDABLE)  
PERFORMANCE ASSURANCE: \$ 400.00  
TOTAL DUE: \$ 500.00

CONST. COMPLETED (DATE): \_\_\_\_\_

REFUND AMOUNT: \$ \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

This form may be reproduced for use in making multiple applications.

Revised June 2021



**CANYON HIGHWAY DISTRICT No. 4**  
 15435 HIGHWAY 44  
 CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135  
 FAX 208/454-2008

January 25, 2022

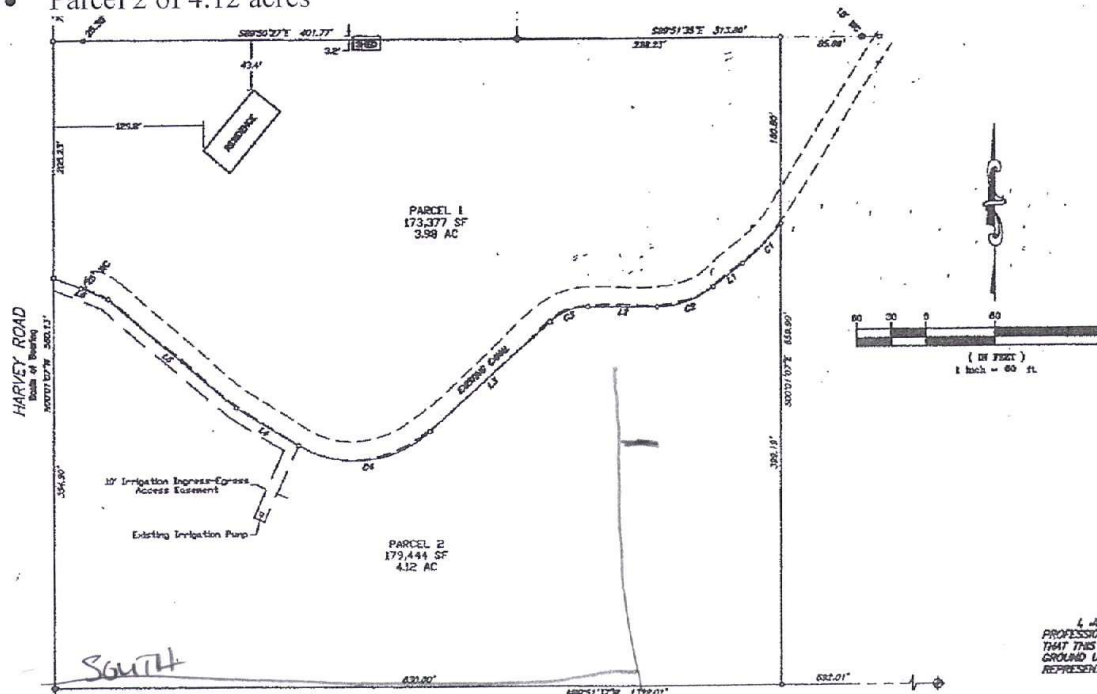
Canyon County Development Services  
 111 N. 11<sup>th</sup> Ave Suite 140  
 Caldwell, Idaho 83605

Jennifer Sala  
 7860 E Tulare Avenue  
 Fresno, CA 93737

**RE: Administrative Land Division- Canyon County Parcel R38194010**

The subject parcel is located in Township 5N Range 3W Section 35 and consists of approximately 8.1 acres. The request consists of splitting the subject parcel generally along the existing canal centerline as shown below.

- Parcel 1 of 3.98 acres
- Parcel 2 of 4.12 acres



**General**

- Subject property has frontage onto major collector Harvey Road
- South property line of new Parcel 2 fronts open public right-of-way
  - Dedicated by Drake Subdivision
  - 28' wide and 280' deep (depth as measured from centerline of Harvey)
- Subject property is more than 1 mile from city limits
  - Rural driveway spacing applies

I HER  
 PROFESSIONAL  
 THAT THIS IS  
 GROUND LINE  
 REPRESENT

The following represents the District's current policies to which the parcels may be subject to at time of development. These standards are subject to change and the standards/policies in effect at the time of approach permit application shall apply:

**Right-of-way**

Harvey Road is classified as a major collector road. Right-of-way dedication consists of 80' (40' half-width measured from section line). Based on the new parcel size, right-of-way dedication is not required. Nonetheless, if the applicant dedicates right-of-way, CHD4 can provide IRS Form 8283 "noncash charitable contribution" which can be used to offset tax liabilities.

**Access**

Per HSDP 3061.020.A, driveway spacing onto a major collector is 330' or can be shared. Due to access density, creating new driveway approach for Parcel 2 is not available.

Parcel 1

Current approach located approximately 40' south of Raptor Lane may continue for the existing residence.

Parcel 2

Can utilize 28' wide open public right-of-way along south property line. Consider locating approach onto open public right-of-way a minimum of 140' east of the section line of Harvey Road.

**Approach Permit**

An approach permit is required when work is requested within the public right-of-way, new or modified access is requested, and/or when change of land use occurs.

Approach for Parcel 2 should be improved per SD-105—minimum 20' wide driveway. Based on aerial and corrugations applicant should consider installing a culvert for the approach.

**Section Line Setbacks**

Canyon County code § 7-10-19 provides for a minimum 70' setback from any section line or quarter-section line to any permanent structure to provide a buffer for future roadway construction unless the highway district having jurisdiction waives the seventy foot (70') setback requirement.

This setback applies from the section line of Harvey Road.

These conditions and attachments are based upon the Highway Standards & Development Procedures for the Association of Canyon County Highway Districts 2017 Edition and Policies.

Sincerely,



Lenny Riccio, E.I.T.  
Assistant Engineer  
Transportation Planner

MIDDLETON RURAL FIRE DISTRICT



STAR FIRE PROTECTION DISTRICT

**FIRE DEPARTMENT ACCESS AND WATER SUPPLY  
RESIDENTIAL CONSTRUCTION APPLICATION**

**PLEASE PRINT**

Date: 4-19-2022

Contractor: Top to Bottom Construction	Contact: Shawn Kelley	<input checked="" type="checkbox"/> Owner Build
Address: 3684 W South Slope	City: Emmett	Zip: 83617
Phone/Mobile: (208) 697-8306	Email Address: slkellat@gmail.com	
Owner(s): owner/builder		
Address:	City:	Zip:
Phone/Mobile:	Email Address:	

**PROJECT INFORMATION**

Project Location: 0 TBDHarvey Lane	County: Canyon		
Legal Description: Part of the Northwest 1/4 of Lot:	Block: Subdivision: na		
Total Acres: 4.12	Total Sq. Ft.:	Stories Above Grade:	Stories Below Grade:

**APPARATUS ACCESS & TURN-AROUND**

*Fire apparatus access roads shall have an unobstructed width of not less than 20 feet exclusive of shoulders with an unobstructed vertical clearance of not less than 13 feet 6 inches. The Surface shall be capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Access roads over 150ft from the public roadway will require emergency turnaround.*

How many dwellings will access the road? 1	Road/Driveway Length: 655ft
Will the road have a gate? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the road 7% grade or less? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**WATER SUPPLY**

*Fire Flow and Water Supply – One- and two-family dwellings not exceeding 3,600 square feet require a fire flow of 1,000 gallons per minute for a duration of 1 hour to service the entire project. One- and two-family dwellings in excess of 3,600 square feet require a minimum fire flow as specified in Appendix B of the International Fire Code.*

Is the dwelling within 1000ft from an approved fire hydrant? <input type="checkbox"/> Yes – Location:	<input checked="" type="checkbox"/> No
---	--

**APPLICANT COMMENTS**

**FIRE CODE OFFICAL USE ONLY**

<b>Apparatus Access and Turn-Around</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	Application & Plans Received: (Date/By) 4/19/22 via DB
	Permit Fee: \$100.00 <input checked="" type="checkbox"/> Paid <input type="checkbox"/> Cash <input type="checkbox"/> Credit Card Check # 1003
<b>Water Supply</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a Type:	Fire Authority Having Jurisdiction: Middleton RFD
	Fire District Permit # 22 MS-068
<b>Knox Box or Gate Switch</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a Type:	City/County Jurisdiction: Canyon CO
	County/City Permit #
Notes: (Drive way) Turn-Around Approved as submitted * 2hr Fire wall Shop/Doing	<b>Emergency Access and Water Supply Application Status</b> <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied
	Fire Code Official: [Signature] Date: 5/19/22

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

MIDDLETON RURAL FIRE DISTRICT



STAR FIRE PROTECTION DISTRICT

FIRE DEPARTMENT ACCESS AND WATER SUPPLY  
RESIDENTIAL CONSTRUCTION APPLICATION SUMMARY

PROJECT INFORMATION

Review Date: 5/19/22 Fire District Permit # 22MS-668 Fire Code Official U. ISA S  
Project Location: TRD HARVEY Lane  
Authority Having Jurisdiction:  Middleton Rural Fire District  Star Fire Protection District

MEMORANDUM OF UNDERSTANDING

I understand that the above reference permit shall expire one (1) year from the date of issue. If a Certificate of Inspection has not been obtained by the Fire District before the review date above, I understand that the permit shall be void, and a new plan review and permit (with accompanying fees and code changes) must be obtained.

I understand that the attached permit defines requirements that I have agreed to meet, and that my project shall be completed within those requirements and in accordance with the drawings, I have provided the Fire Code Official. I understand that significant (in the Fire Code Official's judgment) deviation from the approved drawings or permit document will result in the voiding of the permit and require a new plan review and permit to be issued.

The Fire Code Official has provided me with copies of the following documents:

- Application/Permit
- Memorandum of Understanding
- Required Inspection List

I understand that I am responsible for scheduling required inspections with the Fire District in a timely manner.

I understand that re-inspections will carry an additional fee, as described in the Fee Schedule, which must be paid to the Fire District before issuance of Certificate of Inspection.

I certify that I am the Builder or Owner of this project, or I am an authorized agent and empowered to sign this document.

Builder/Owner Signature: *One Lynn Kelley* Date: 5-20-22 Fire Code Official: *U. ISA S*

REQUIRED INSPECTIONS

FIRE DEPARTMENT ACCESS

- Driveway
- Knox Box
- Knox Gate Switch
- Turnaround
- Address
- Other: \_\_\_\_\_

WATER SUPPLY

- NFPA 13D Sprinkler System
  - Hydro Inspection
  - Rough to cover
  - Tinting
  - Water flow
  - Final Inspection
- Other: \_\_\_\_\_

To schedule an inspection with the Fire Code Official, contact our Fire District Headquarters at (208) 286-7772. Provide the permit number, address, and inspection type. Inspections will be scheduled within 24-48 hours.

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



**DSD Director Administrative Decision**

Canyon County Code of Ordinances  
§07-18-01

Exhibit 7  
2022-008875

RECORDED

02/16/2022 02:52 PM



CHRIS YAMAMOTO  
CANYON COUNTY RECORDER  
Pgs=2 LBERG \$13.00  
MISC  
RYAN COIT

Case Number: **AD2022-0003**  
Parcel #'s: **R38194010**  
Property Owner/Applicant(s): **Jennifer Sala**

**Request:** The applicant is requesting an administrative land division. The land division request results in two parcels with both parcels taking access to Harvey Road (collector).

**Property History:** The parcel, approximately 8.10 acres, is zoned "A" (Agricultural) and considered an original parcel (created prior to September 6, 1979; CCZO §07-02-03).

**Findings - Administrative Land Division:** The request is consistent with CCZO §07-18-01, as follows:

- The request is consistent with the minimum lot size and number of divisions allowed within an "A" zone. The 8.10-acre parcel will be divided to create a 3.98-acre parcel and a 4.12-acre parcel.
- The request is consistent with §07-18-01 as noted: "The subject property shall be in compliance with the public nuisance ordinance (chapter 2, article 1 of this code) and the building code (chapter 6 of this code) before the director can approve the application.
- Development shall either use water rights from an Irrigation District or 0.5 acre-feet from the domestic well in accordance with Idaho Law 42-111(a).
- Based on contour maps, the property does not contain slopes greater than 15%.
- On January 20, 2022, Canyon Highway District No. 4 and Middleton Fire District were noticed. The following comments were received.
  - Melba Fire District: Fire District review is required at the time of building permit submittal.
  - Nampa Highway District No. 1: Any new approaches must meet current highway district standards and conditions.
- The requested division is consistent with the record of survey recorded on February 9, 2022; Instrument #2022-007396, described as follows:

Parcel 1: 3.98 ± acres (Existing dwelling and accessory structures)  
Parcel 2: 4.12 ± acres (Building permit available)

**DISCLAIMER: Parcels will not be adjusted by the Assessor's Office until deeds are recorded.**

**Decision:** The application to complete the described administrative land division in accordance with CCZO §07-18-01 is **APPROVED** subject to the following conditions of approval:

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property. The Idaho Right to Farm Act (Idaho Code §22-4503) applies to this land use decision.
  - a. Stormwater run-off shall be retained on-site. Stormwater retention is the responsibility of the homeowner.
2. Prior to building permit issuance, an onsite evaluation and septic permit is required from Southwest District Health.

- 3. Comply with all requirements of ACCHD Standards Manual. Prior to building permit issuance, an approach permit is required by CHD No. 4. Proposed driveway locations shall meet Section 3061.020 of the ACCHD Standards.
- 4. Historic irrigation lateral, drain and ditch flow patterns shall be maintained and protected. Modification shall be approved in writing by the local irrigation District and/or Bureau of Reclamation.

  
 \_\_\_\_\_  
 Dan Lister, Planning Official

2-16-22  
 \_\_\_\_\_  
 Date

State of Idaho )  
 ) SS  
 County of Canyon County )

On this 16 day of February, in the year of 2022, before me Cassandra J Lamb, a notary public, personally appeared Dan Lister, personally known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she)(they) executed the same.



Notary: Cassandra J Lamb  
 My Commission Expires: 11-05-2026







**PLANNING AND ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

In the matter of the application of:

**Kelley – CR2022-0033**

The Canyon County Planning and Zoning Commission considers the following:

1. Conditional rezone of parcel R38194010A from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone – Single Family Residential).

- a. The request includes a development agreement limiting development to three (3) buildable lots.

[Case CR2022-0033, 24720 Harvey Road, Caldwell, portion of the NW¼ of Section 35, T5N, R3W, B-M Canyon County, Idaho]

**Summary of the Record**

1. The record is comprised of the following:

- A. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2022-0033.

**Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-06-01 (Initiation of Proceedings), Canyon County Code §07-06-07 (Conditional Rezones), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and Canyon County Code §09-09-15 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote the public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See* CCZO §07-06-07(1).
  - c. All conditional rezones for land use shall commence within two (2) years of the approval of the board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. *See* CCZO §07-05-01
2. The commission has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use, including subdivision permits. *See* I.C. §67-6504, §67-6511.
3. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-06-05.
4. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and

statutory provisions, pertinent constitutional principles and factual information contained in the record. The County’s hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

**The application, CR2022-0033, was presented at a public hearing before the Canyon County Planning and Zoning Commission on February 1, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Planning and Zoning Commission decides as follows:**

**CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)**

**1. Is the proposed conditional rezone generally consistent with the comprehensive plan?**

**Conclusion:** As conditioned by the development agreement, the conditional rezone is generally consistent with the 2020 Comprehensive Plan.

- Findings:**
- (1) The application was submitted at the time the 2020 Canyon County Comprehensive Plan was in effect. The future land use plan designation is residential (Exhibit 3c, Staff Report). The 2030 Comprehensive Plan also designates the parcel as ‘residential’ (Exhibit 3d, Staff Report).
  - (2) The request generally aligns with the following goals and policies of the 2020 Canyon County Comprehensive Plan.
    - Private Property Rights Policy 1: *“No person shall be deprived of private property without due process of law.”*
      - o The conditional rezoning application was submitted on November 29, 2022. The application requires public hearings shall comply with Idaho Code Section 69-6511 & 69-6511A and CCZO Chapter 7, Articles 5 and 6.
    - Population Policy 2: *“Encourage future high-density development to locate within incorporated cities and/or areas of city impact.”*
      - o The request is located within the Middleton Area of City Impact (Exhibit 3d, Staff Report).
    - Population Policy 3: *“Encourage future population to locate in areas that are conducive for residential living and that do not pose an incompatible land use to other land uses.”*
      - o See the findings for Criteria 2, 3 & 4 for evidence.
    - Land Use Policy 2: *“Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.”*
      - o The request will allow the development of a three-lot subdivision conditioned by a development agreement (Attachment A). See Criteria 2, 3 & 4 for evidence.
    - Land Use – Residential Policy 2: *“Encourage residential development in areas where agricultural uses are not viable.”*
      - o See the findings for Criteria 2 for evidence.
    - Natural Resources – Agricultural Land Policy 2: *“Development should not be allowed to disrupt or destroy irrigation canals, ditches, laterals and associated rights-of-way. This does not apply to privately owned, self-contained systems.”*
      - o See Attachment A for conditions of the development agreement and the findings for Criteria 4 & 5 for evidence.
    - Natural Resources – Agricultural Land Policy 3: *“Protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.”*
      - o See the findings for Criteria 2, 3 & 4 for evidence.
    - Hazardous Areas – Goal 1: *“To ensure the safety of residents and the protection of property.”*

- The request is not located in a floodplain, hillside, or unstable or hazardous location (Exhibit 3, Staff Report).
- Public Services, Facilities and Utilities Policy 2: “Encourage the establishment of expanded sewer infrastructure and wastewater treatment in areas of city impact.”
  - See findings and evidence in the section titled Canyon County Code §09-09-15 - MIDDLETON AREA OF CITY IMPACT AGREEMENT ORDINANCE.
- Public Services, Facilities and Utilities Policy 3: “Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”
  - The request is located within the jurisdiction of Middleton Rural Fire District.
- Transportation Policy 20: “Work with highway districts, ITD, cities and others to reserve rights-of-way for planned transportation facilities.”
  - See the findings in Criteria 6 for evidence.
- Special Areas, Sites and Recreation Goal 1: “To encourage the preservation of recreational, historical, archeological and architectural landmark areas of the county for the beneficial use of future generations.”
  - The request is not located near a special area, historic site, or recreational area.
- Housing Policy 1: “Encourage a variety of housing choices that meet the needs of families, various age groups and incomes.”
  - The request will allow the 4.12-acre parcel to be divided into a total of three lots for residential development (Attachment A).
- Housing Policy 2: “Limit housing in areas that are hazardous whenever possible. Such constraints or hazards include but are not limited to, the following: - Flood Hazards, - Unstable soil and/or geologic, - Contaminated groundwater.”
  - The request is not located in a floodplain, hillside, or unstable or hazardous location (Exhibit 3, Staff Report).
- Agriculture Policy 3: “Protect agricultural operations and facilities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.”
  - See the findings in Criteria 2, 3 & 4 for evidence.
- Agriculture Policy 4: “Development shall not be allowed to disrupt or destroy irrigation canals, ditches, laterals, drains and associated irrigation works and rights-of-way.”
  - See Attachment A for conditions of the development agreement.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?**

**Conclusion:** Based on the location of the parcel near other similar subdivisions and zones, the request to “CR-R-1” is more appropriate.

- Findings:**
- (1) The parcel is zoned “A” (Agricultural; Exhibit 3f, Staff Report). The future land use plan designation within the Canyon County Comprehensive Plan is residential (Exhibit 3c & 3d, Staff Report). The property is located in the Middleton Area of City Impact where they designated the future land use as residential (Exhibit 3e, Staff Report).
  - (2) The parcel consists of Class III, moderately-suited soils, and is considered prime farmland (Exhibit 3i, Staff Report). The parcel is surrounded immediately by residential parcels to the north, Drake Subdivision to the south, Eagles Nest Estates Subdivision and rural sized parcels to the west, and a future subdivision, Green Hills Landing Subdivision, to the east. The parcel is less than five acres and does not have a bona fide agricultural operation; and therefore, it

does not qualify for an agricultural tax exemption (Idaho Code 63-604). Canyon Soils Conservation District has no comment or concern regarding the request (Exhibit 4d, Staff Report).

- (3) There are no productive agricultural uses near the parcel. Productive agricultural uses are predominant north of Purple Sage Road (Exhibit 3a, Staff Report). The property is not located near any gravel pits but is within one mile of three feedlots and over one mile from two dairies (Exhibit 3j, Staff Report). The nearest feedlot, Rising Star Cattle, is located north of Purple Sage Road approximately 1,400 feet northeast of the subject parcel
- (4) *See additional evidence in the findings for Criteria 3 & 4.*
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

### 3. Is the proposed conditional rezone compatible with surrounding land uses?

**Conclusion:** The request is compatible with existing uses found in the area.

**Findings:**

- (1) The north boundary of the parcel abuts three parcels, R38194010, R38194010B, and R38194010C, that were created via conditional rezone in 2022 (CR2022-0026) and divided into three parcels in 2023 (AD2023-0034). The south boundary line abuts parcels created by Drake Subdivision in 1973 with 41 lots with a 0.98-acre average lot size (Exhibit 3h, Staff Report). The east boundary abuts a large 57.4-acre agricultural parcel conditionally rezoned to “CR-R-1” in 2018 (RZ2018-0021). The preliminary plat for Green Hills Landing Subdivision was approved in 2020 with 40 lots and a 1.44-acre average lot size (SD2018-0019). The west boundary abuts Harvey Road, a public road. East of Harvey Road are residential parcels and subdivisions, Eagles Nest Estates, approved in 1998 with 11 lots and a 3.24-acre average lot size.
- (2) Per Exhibit 3g of the Staff Report, approximately 1,300 feet west of the subject parcel is a large parcel rezoned “CR-R-1” (CR2019-0008), and subsequently Spring Hills Ranch Subdivision was approved in 2022 with 28 lots with a 1.36-acre average lot size (SD2021-0044). Approximately 2,000 feet east and 750 feet southeast are two large parcels rezoned to “R-R” (Rural Residential) in 2007 (RZ2006-10). A 40-acre portion approximately 2,000 feet east received preliminary plat approval for 18 lots with a 2.15-acre average lot size (Ridgeland Estates Subdivision, SD2020-0036).
- (3) Within a one-mile radius, there are 36 subdivisions with an average lot size of 1.62 acres and four approved preliminary plats with a 1.68-acre average lot size (Exhibit 3h, Staff Report).
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

### 4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?

**Conclusion:** The request will not negatively impact the character of the area.

**Findings:**

- (1) The request will be similar to the recent development immediately north of the subject parcel. The north boundary of the parcel abuts three parcels, R38194010, R38194010B, and R38194010C, that were created via conditional rezone in 2022 (CR2022-0026) and divided into three parcels in 2023. The subject parcel currently has a dwelling. The request allowed two more dwellings on a total of three residential lots. The division to create those lots requires platting. The development agreement (Attachment A) restricts the rezone to only three lots.
- (2) The development agreement (Attachment A) includes conditions regarding no secondary dwellings, private road access, and irrigation to ensure the development reduces potential impacts to the area to a level less than significant. *See the findings for Criteria 5-8 and City Impact Agreement findings for evidence.*

- (3) Notice of the public hearing was provided per CCZO §07-05-01. Property owners within 600' of the subject parcel were notified on December 20, 2023. A newspaper notice was published on December 22, 2023. A notice was posted on the property on December 29, 2023.
  - a. No comments from the public were received.
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**5. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate proposed conditional rezone?**

**Conclusion:** Subject to conditions of the development agreement (Attachment A), the proposal can ensure adequate facilities can be provided before signing of the final plat.

**Findings:**

- (1) The parcel is currently served by a septic and well (Exhibit 2a, Staff Report). Future lots will be served by individual wells and septic. The parcel is located within a nitrate priority area (Exhibit 31). A Nitrogen Pathogen (NP) Study will be required by Southwest District Health at the time of platting. No comments were received from Southwest District Health.
- (2) Powerline bisects the property that can serve the request (Exhibit 5). The plat requires utility easements and easements where existing utilities exist and cannot be moved (CCZO Section 07-17-09(1)D&E). No comments were received from ID Power or Intermountain Gas.
- (3) The property is currently served by an irrigation well with rights to one inch per acre a year (Exhibit 2c, Staff Report). The well appears to be located on parcel R38194010A, outside of the subdivision, which crossed the CE10.2-5.1 Lateral to serve the request (Exhibit 2b, Staff Report).
- (4) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
  - a. Black Canyon Irrigation District (BCID) identifies concerns regarding the irrigation serving the request (Exhibit 4e, Staff Report). BCID finds the property has surface water rights via Drake Subdivision. BCID requests the applicant to work with Drake Subdivision HOA to address the issue.
    - i. Per ID CODE 67-6537(1) *“The intent of this section is to encourage the use of surface water for irrigation. All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation. Surface water shall be deemed reasonably available if:*
      - (a) A surface water right is, or reasonably can be made, appurtenant to the land;
      - (b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity’s distribution system is capable of delivering the water to the land; or
      - (c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.”
    - b. The groundwater well to be used for irrigation crosses the lateral and is located within the district easements. The applicant requires a license/crossing agreement approval from BCID. BCID recommends their concerns be conditions of the development agreement so they are addressed during platting.

As a condition of the development agreement (Attachment A), the plat shall demonstrate compliance with Idaho Code 67-6537(1) and the comments letter from Black Canyon Irrigation District prior to approval of the preliminary plat.

- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?**

**Conclusion:** The request, as conditioned, is not anticipated to impact existing or future traffic on Harvey Road.

- Findings:**
- (1) The parcel has access to Harvey Road, a public road. The request allowed three lots to be developed for residential use (including the existing dwelling on the parcel) which creates 28.56 average daily trips (ADT) per CCZO Section 07-10-03(3)A1.3. As conditioned, Secondary dwellings per CCZO Sections 07-10-27 and 07-14-25 are prohibited which reduces trips generated on the private road and Harvey Road and are similar conditions placed on the development north of the subject parcel (Attachment A).
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
    - a. Highway District #4 (HD4) finds the request does not trigger a traffic impact study (Exhibit 4c, Staff Report). HD4 will require public right-of-way dedication and payment of impact fees as traffic impact mitigation measures.
    - b. Idaho Transportation Department (ITD) finds any impacts based on the request to be minimal (Exhibit 4b, Staff Report).
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**7. Does legal access to the subject property for the conditional rezone exist or will it exist at time of development?**

**Conclusion:** The property has legal access. Future development will require private road improvements.

- Findings:**
- (1) The property has legal access from Harvey Road via a 25' open public right-of-way. The request will be required to meet private road requirements and construction standards (CCZO Section 07-10-03 and 07-17-31).
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
    - a. Highway District #4 (HD4) finds no access issues. The request does not trigger a traffic impact study (Exhibit 4c, Staff Report). HD4 will require public right-of-way dedication and payment of impact fees as traffic impact mitigation measures.
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?**

**Conclusion:** As conditioned by the development agreement, the request is not anticipated to impact essential services.

- Findings:**
- (1) As conditioned by the development agreement (Attachment A), the request is not anticipated to impact essential services. The property has an existing dwelling served by Middleton Fire District (Exhibit 2a, Staff Report), Middleton School District, Canyon County Sheriff's Department, and Canyon County Paramedics/EMT (Exhibit 6, Staff report) As conditioned, an additional two lots are not anticipated to impact essential services. No comments were received from the above-stated agencies. The fire district approval provided by the applicant is for the existing dwelling on the property, not the request (Exhibit 2a and 6, Staff Report).

- (2) Notice of the public hearing was provided per CCZO §07-05-01. Full political notice was sent on December 20, 2023. Affected agencies were noticed on October 2, 2023, and December 20, 2023.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

### **Canyon County Code §09-09-15 - MIDDLETON AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Middleton Area of City Impact. A notice was sent to the City of Middleton per Canyon County Code Section 09-09-15. The development agreement (Attachment A) includes a condition requested by the City of Middleton for an easement to ensure future city services are not blocked.

**Findings:**

- (1) The subject property is located in the Middleton Area of City Impact (Exhibit 3e, Staff Report). The Middleton Area of City Impact Ordinance was adopted in 2001 (Ord No. 05-013). Section 09-09-03(2) of the Ordinance states: *“The purpose of these provisions is to promote the public health, safety, general welfare, peace, good order, comfort and convenience of the county and the inhabitants thereof by establishing regulations for the Middleton area of city impact.”*
  - a. Middleton’s Comprehensive Plan designated the parcel as “residential” on the future land use map (Exhibit 3e, Staff Report).
- (2) Section 09-09-15 of the Ordinance states: *“All proposed county ordinance amendments to the text and/or map which may relate to the Middleton area of city impact shall be referred to the city in the same manner as provided for in subsection 09-09-11(3) of this article, except that recommendations received from the city by the county are nonbinding but any factually supported recommendations shall be seriously considered by the county.”* Pursuant to Section 09-09-11(3) of the Ordinance, notice shall be provided to the City of Middleton at least 30 days prior to the first public hearing. An official notice was provided on October 2, 2023. A hearing notice was provided on December 20, 2023.
  - a. The City of Middleton did not submit a comment to County staff. However, the applicant provided an e-mail between the city and the property owner (Exhibit 4a, Staff Report). The city requires a pre-annexation agreement and utility easement for future city services to be located within when services reach the area.
  - b. Per CCZO Section 09-09-11(3): *“If a recommendation is received it shall be given great weight by the county, provided it is factually supported, but such recommendation shall not be binding on the county. If no response is received the county may proceed without the recommendation of the city.”*
  - c. As a condition of the development agreement (Attachment A), a utility easement shall be provided for future city services along the frontage of the property. However, the condition does not include the requested pre-annexation agreement. The city is not providing services to the development; and therefore, there is not a nexus to require a pre-annexation agreement.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0033.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approval** of Case # CR2022-0033, a conditional rezone of parcel R38194010A from an "A" Zone to a "CR-R-1" zone, subject to conditions of the development agreement (Attachment A).

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

\_\_\_\_\_  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**ATTACHMENT A**  
**DRAFT CONDITIONS OF APPROVAL**

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
  - a. Prior to the Board of County Commissioners signing of the final plat, the private road shall comply with CCZO Section 07-17-29 & 31.
  - b. Prior to the Board of County Commissioners signing of the final plat, Highway District #4 and Southwest District Health signatures must be on the final plat.
2. The subject parcel, 4.15 acres, shall be divided in compliance with County Subdivision requirements (Chapter 7, Article 17, Canyon County Zoning Ordinance, in substantial compliance with the conceptual site plan (Attachment B) subject to the following restrictions:
  - a. Secondary dwellings (CCZO §07-10-27 & 07-14-25) are prohibited.
  - b. Further division of the parcels is prohibited unless the development agreement is modified or approval of a zoning map amendment.
  - c. A utility easement along Harvey Road shall be included to ensure the development does not impede the city's ability to extend city services to the area in the future. The applicant shall work with the City of Middleton to ensure the utility easement width is adequate.
  - d. Pressurized irrigation shall be provided. Use of water rights shall comply with Idaho Code Section 67-6537(1).
    - i. The applicant must comply with all standards and regulations outlined in the Black Canyon Irrigation District Letter (Exhibit 4e, Staff Report).
    - ii. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected. Modifications or improvements shall be approved in writing by the local Irrigation District.
3. The developer shall comply with CCZO §07-06-07 (4) Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."

# ATTACHMENT B CONCEPTUAL SITE PLAN

